

# Ancillary orders Consultation

September 2024



# **Ancillary orders**

## Consultation

September 2024



© Crown copyright 2024

This publication is licensed under the terms of the Open Government Licence v3.0 except where otherwise stated. To view this licence, visit [nationalarchives.gov.uk/doc/open-government-licence/version/3](https://nationalarchives.gov.uk/doc/open-government-licence/version/3)

Where we have identified any third party copyright information you will need to obtain permission from the copyright holders concerned.

This publication is available at [www.sentencingcouncil.org.uk](http://www.sentencingcouncil.org.uk).

Any enquiries regarding this publication should be sent to us at [info@sentencingcouncil.gov.uk](mailto:info@sentencingcouncil.gov.uk).

# Contents

<b>Introduction</b>	<b>1</b>
<b>Overarching issues</b>	<b>3</b>
<b>Animal deprivation order</b>	<b>6</b>
<b>Animal destruction order – animal welfare</b>	<b>8</b>
<b>Animal disqualification order</b>	<b>10</b>
<b>Compensation order</b>	<b>12</b>
<b>Confiscation order</b>	<b>22</b>
<b>Criminal behaviour order</b>	<b>25</b>
<b>Deprivation of property order</b>	<b>30</b>
<b>Destruction and contingent destruction order – Dangerous Dogs Act</b>	<b>32</b>
<b>Disqualification order – Dangerous Dogs Act</b>	<b>35</b>
<b>Disqualification from being a company director</b>	<b>37</b>
<b>Football banning order – on conviction</b>	<b>39</b>
<b>Forfeiture of drugs and psychoactive substances</b>	<b>42</b>
<b>Forfeiture or suspension of personal licence (supply of alcohol) - Licensing Act 2003</b>	<b>44</b>
<b>Forfeiture of money or property used for the purposes of terrorism (following a conviction under sections 15 to 18 of the Terrorism Act 2000)</b>	<b>47</b>
<b>Forfeiture of offensive weapons</b>	<b>50</b>
<b>Forfeiture of equipment used in animal welfare offences</b>	<b>51</b>

<b>Forfeiture order - Trade mark offences</b>	<b>53</b>
<b>Licenced premises - Exclusion order</b>	<b>55</b>
<b>Parenting order – Child</b>	<b>57</b>
<b>Parenting order – Education Act</b>	<b>60</b>
<b>Restitution</b>	<b>62</b>
<b>Restraining order on conviction</b>	<b>64</b>
<b>Serious crime prevention order on conviction</b>	<b>69</b>
<b>Sexual harm prevention order on conviction</b>	<b>72</b>
<b>Slavery and trafficking prevention order</b>	<b>75</b>
<b>Slavery and trafficking reparation order</b>	<b>77</b>
<b>Sub-letting - Unlawful profit order</b>	<b>79</b>
<b>Travel restriction order</b>	<b>81</b>
<b>Equalities and impact</b>	<b>83</b>

# About this consultation

To:	This consultation is open to everyone including members of the judiciary, legal practitioners and any individuals who work in or have an interest in criminal justice.
Duration:	From 11 September 2024 to 4 December 2024
Enquiries (including requests for the paper in an alternative format) to:	Office of the Sentencing Council Tel: 020 7071 5793 Email: <a href="mailto:info@sentencingcouncil.gov.uk">info@sentencingcouncil.gov.uk</a>
How to respond:	Please send your response by 4 December to: Vicky Hunt Email: <a href="mailto:consultation@sentencingcouncil.gov.uk">consultation@sentencingcouncil.gov.uk</a> or by using the online consultation at: <a href="https://consult.justice.gov.uk/">https://consult.justice.gov.uk/</a>
Response paper:	Following the conclusion of this consultation exercise, a response will be published at: <a href="http://www.sentencingcouncil.org.uk">www.sentencingcouncil.org.uk</a>
Freedom of information:	<p>We will treat all responses as public documents in accordance with the Freedom of Information Act and we may attribute comments and include a list of all respondents' names in any final report we publish. If you wish to submit a confidential response, you should contact us before sending the response. PLEASE NOTE – We will disregard automatic confidentiality statements generated by an IT system.</p> <p>In addition, responses may be shared with the Justice Committee of the House of Commons.</p> <p>Our privacy notice sets out the standards that you can expect from the Sentencing Council when we request or hold personal information (personal data) about you; how you can get access to a copy of your personal data; and what you can do if you think the standards are not being met. It is published on our website at: <a href="http://www.sentencingcouncil.org.uk/privacy">www.sentencingcouncil.org.uk/privacy</a>.</p>

---

# Introduction

## What is the Sentencing Council

The Sentencing Council is the independent body responsible for developing sentencing guidelines for the courts to use when passing a sentence. The Council consults on its proposed guidelines before they come into force and makes changes to the guidelines as a result of consultations.

## What is this consultation about?

The Sentencing Council currently provides guidance on ancillary orders in various places on our website as well as within offence specific guidelines (usually at step 6 or 7). Most of this guidance is aimed at magistrates' courts.

The Council is seeking to improve the consistency, accessibility and presentation of the current information and to provide more detailed guidance for both magistrates' courts and the Crown Court.

## Responding to the consultation

Through this consultation process, the Council is seeking views on the usefulness, accuracy and clarity of the proposed changes and anything else that you think should be considered.

In the following sections the proposed changes are outlined in detail and you will be asked to give your views. You can give your views by answering some or all of the questions below either by email to [consultation@sentencingcouncil.gov.uk](mailto:consultation@sentencingcouncil.gov.uk) or by using the online consultation at <https://consult.justice.gov.uk/>.

## What else is happening as part of the consultation process?

This is a 12-week public consultation. The Council has not planned any consultation meetings but would be happy to arrange a meeting to discuss any of the issues raised if this would be helpful. Once the results of the consultation have been considered, the updated guidelines will be published and used by all courts

**Question 1: What is your name?**

**Question 2: What is your email address?**

---



**Question 3: Are you answering as an individual? If so, are you happy for your name to be included in the consultation response document?**

**Question 4: If you are answering on behalf of an organisation, group or bench, please provide the name of the organisation, group or bench.**

---

# Overarching issues

Ancillary orders are referenced in various ways in sentencing guidelines and elsewhere on the Sentencing Council website. Most offence specific guidelines have a step (usually step 6 or 7) entitled 'Ancillary orders' or 'Compensation and ancillary orders'. Some guidelines only have a brief piece of text in addition to those links, such as:

'In all cases the court should consider whether to make ancillary orders' or

'In all cases the court should consider whether to make compensation and/or other ancillary orders. Where the offence has resulted in personal injury, loss or damage the court must give reasons if it decides not to order compensation ([Sentencing Code, s.55](#)).'

Other guidelines contain more information. This can take the form of:

- a reference to ancillary orders that may be relevant to that offence either with or without links to more detailed information; or
- reference to relevant ancillary orders with text in the guideline giving more details; or
- a dropdown giving more information (there are three of these – for sexual offences, terrorism offences, and driving offences).

The ancillary orders hyperlinks in guidelines take users to the supplementary information which is material provided for the magistrates courts only (previously called explanatory materials). As noted, there is usually a general link to these in guidelines (including in a few guidelines for offences that are indictable only). The full list of matters covered is:

[Introduction to ancillary orders](#)

[Anti-social behaviour orders](#)

[Binding over orders](#)

[Confiscation orders](#)

[Criminal behaviour orders](#)

[Deprivation of ownership of animal](#)

[Deprivation orders](#)

[Destruction orders and contingent destruction orders for dogs](#)

[Disqualification from driving – general power](#)

[Disqualification from ownership of animals](#)

---

[Disqualification of company directors](#)

[Drinking banning orders](#)

[Exclusion orders](#)

[Football banning orders](#)

[Forfeiture and destruction of drugs](#)

[Forfeiture and destruction of goods bearing unauthorised trade mark](#)

[Forfeiture and destruction of weapons orders](#)

[Forfeiture or suspension of liquor licence](#)

[Parenting orders](#)

[Restitution orders](#)

[Restraining orders](#)

[Sexual harm prevention orders](#)

[Sexual offences prevention orders](#)

[Automatic orders on conviction for sexual offences](#)

[Additional note: Availability of ancillary orders](#)

As part of the work currently being undertaken on improvements to the website, the appearance of the supplementary information (previously called explanatory materials) page which contains the ancillary orders has changed, to make it easier to navigate, but the content has not.

The guidance provided by the Sentencing Council is limited to magistrates' courts. Where relevant some guidelines also include a hyperlink to the Crown Court Compendium (produced by the Judicial College) to enable judges to find relevant Crown Court guidance on ancillary orders. However, the link provided in the guidelines is to a landing page on the Judiciary website. From there a user needs to scroll down and download the [Crown Court Compendium Part II Sentencing June 2023](#). There is no section in that document devoted to ancillary orders though several are covered in Section 3 Disposals (General) and others in Section 6 Further Powers of Sentencing.

### **Developments currently being considered by the Sentencing Council**

Earlier this year the Council consulted on additional guidance for disqualification from driving which includes the information and guidance currently contained in the

---

---

supplementary materials. The Council is now reviewing the responses received to the consultation and will update and amend the guidance as part of that project.

### Changes Proposed

- It is proposed that we make changes to provide a more consistent level of assistance on ancillary orders.
- It is proposed that we provide a similar level of information for the Crown Court rather than providing a link to the judiciary website.
- It is proposed that at the ancillary orders step of all sentencing guidelines we will include a link to a page on ancillary orders. This page will provide general information relevant to magistrates' courts and the Crown Court. It will also include a comprehensive list of specific ancillary orders, each one will have a dropdown that will give the user further detailed information.
- In addition to the general ancillary orders link, we propose to include drop downs with detailed guidance on specific ancillary orders in those guidelines where this is relevant. For example, within the football related offences guideline we would include a drop down with information on football banning orders. Within the driving with excess alcohol guideline we would include a drop down with information on driving disqualification orders. A drop down allows the user to open the information within the guideline (on the same page). The information is essentially embedded into the guideline. The content of the dropdown comes from a central source so that we can update the content of the dropdowns by amending just one document.

This consultation paper seeks views on this approach and on the content of the new guidance.

### **Question 5: Do you agree with the proposed approach to providing guidance on ancillary orders for both magistrates' courts and the Crown Court?**

The rest of this consultation paper seeks views on the specific guidance. You can comment on all or just some of the proposals.

---

# Animal deprivation order

Guideline users should be aware that the [Equal Treatment Bench Book](#) covers important aspects of fair treatment and disparity of outcomes for different groups in the criminal justice system. It provides guidance which sentencers are encouraged to take into account wherever applicable, to ensure that there is fairness for all involved in court proceedings.

<b>May be made by</b>	<b>A magistrates' court or the Crown Court</b>
<b>Relevant legislation</b>	<a href="#">Animal Welfare Act 2006, section 33</a>
<b>Availability</b>	<p>If the person convicted of an <b>offence</b> under any of the following sections:</p> <ul style="list-style-type: none"> <li>• causing unnecessary suffering (s.4);</li> <li>• mutilation (s.5);</li> <li>• docking of dogs' tails (ss.6(1) and 6(2));</li> <li>• administration of poisons etc. (s.7);</li> <li>• fighting etc. (s.8) and</li> <li>• breach of duty to ensure welfare (s.9)</li> </ul> <p>is the owner of an animal in relation to which the offence was committed, the court may, instead of or in addition to dealing with them in any other way, make an order depriving them of ownership of the animal and for its disposal, including by destruction.</p> <p>Where the owner of an animal is convicted of <b>breaching</b> an animal disqualification order under <a href="#">section 34(2)</a> the court by or before which the offender is convicted may, instead of or in addition to dealing with them in any other way, make an order depriving them of ownership of the animal and for its disposal, including by destruction.</p> <p>Where the animal in respect of which an order is made has any dependent offspring, the order may include provision depriving the person to whom it relates of ownership of the offspring and for its disposal, including by destruction.</p>
<b>Content of the order</b>	<p>The order may:</p> <ul style="list-style-type: none"> <li>• appoint a person to carry out, or arrange for the carrying out of, the order;</li> </ul>

- 
- require any person who has possession of an animal to which the order applies to deliver it up to enable the order to be carried out;
  - give directions with respect to the carrying out of the order;
  - confer additional powers (including power to enter premises where an animal to which the order applies is being kept) for the purpose of, or in connection with, the carrying out of the order;
  - order the offender to reimburse the expenses of carrying out the order.

The order may also

- specify the manner in which an animal is to be disposed of, or
- delegate the decision about the manner in which an animal is to be disposed of to a person appointed.

### Reasons

---

The court is required to give reasons if it decides not to make such an order, unless the court instead makes an order for disqualification under section 34(1) Animal Welfare Act 2006.

---

### Sentencing guidelines that will include a drop down of this guidance:

- Animal cruelty
- Failure to ensure animal welfare

**Question 6: Do you have any comments on the content of the animal deprivation order guidance, or on the list of sentencing guidelines which will include this guidance?**

---

# Animal destruction order – animal welfare

Guideline users should be aware that the [Equal Treatment Bench Book](#) covers important aspects of fair treatment and disparity of outcomes for different groups in the criminal justice system. It provides guidance which sentencers are encouraged to take into account wherever applicable, to ensure that there is fairness for all involved in court proceedings.

<b>May be made by</b>	<b>A magistrates' court or the Crown Court</b>
<p><b>Relevant legislation</b></p>	<p><a href="#">Animal Welfare Act 2006, section 37</a></p> <p><a href="#">Animal Welfare Act, section 38</a></p> <hr/> <p>The court by or before which a person is convicted of an offence under:</p> <ul style="list-style-type: none"> <li>• causing unnecessary suffering (s.4);</li> <li>• mutilation (s.5);</li> <li>• docking of dogs' tails (s.6(1) and 6(2));</li> <li>• administration of poisons etc. (s.7);</li> <li>• fighting etc. (s.8(1) and (2)) and</li> <li>• breach of duty to ensure welfare (s.9)</li> </ul> <p>may order the destruction of an animal in relation to which the offence was committed if it is satisfied, on the basis of evidence given by a veterinary surgeon, that it is appropriate to do so in the interests of the animal.</p> <p>The court must give the owner of the animal an opportunity to be heard, unless it is satisfied that it is not reasonably practicable to communicate with the owner.</p>
<p><b>Availability in the interests of the animal</b></p>	<p>The court by or before which a person is convicted of an offence under section 8 (1) or (2) may order the destruction of an animal in relation to which the offence was committed on grounds other than the interests of the animal.</p> <p>The court must give the owner of the animal an opportunity to be heard, unless it is satisfied that it is not reasonably practicable to communicate with the owner.</p>
<p><b>Availability other than in the interests of the animal</b></p>	<p>The court by or before which a person is convicted of an offence under section 8 (1) or (2) may order the destruction of an animal in relation to which the offence was committed on grounds other than the interests of the animal.</p> <p>The court must give the owner of the animal an opportunity to be heard, unless it is satisfied that it is not reasonably practicable to communicate with the owner.</p>

**Content of the order**

The Court may:

- appoint a person to carry out, or arrange for the carrying out of, the order;
- require a person who has possession of the animal to deliver it up to enable the order to be carried out;
- give directions with respect to the carrying out of the order (including directions about how the animal is to be dealt with until it is destroyed);
- confer additional powers (including power to enter premises where the animal is being kept) for the purpose of, or in connection with, the carrying out of the order;
- order the offender or another person to reimburse the expenses of carrying out the order.

**Sentencing guidelines that will include a drop down of this guidance:**

- Animal cruelty
- Failure to ensure animal welfare

**Question 7: Do you have any comments on the content of the animal destruction order guidance, or on the list of sentencing guidelines which will include this guidance?**



# Animal disqualification order

Guideline users should be aware that the [Equal Treatment Bench Book](#) covers important aspects of fair treatment and disparity of outcomes for different groups in the criminal justice system. It provides guidance which sentencers are encouraged to take into account wherever applicable, to ensure that there is fairness for all involved in court proceedings.

<b>May be made by</b>	<b>A magistrates' court or the Crown Court</b>
<b>Relevant legislation</b>	<a href="#">Animal Welfare Act 2006, section 34</a>
<b>Availability</b>	<p>A court may make a disqualification order where an offender is convicted of one of the following offences under the Animal Welfare Act 2006:</p> <ul style="list-style-type: none"> <li>• causing unnecessary suffering (s.4);</li> <li>• mutilation (s.5);</li> <li>• docking of dogs' tails (ss.6(1) and 6(2));</li> <li>• administration of poisons etc. (s.7);</li> <li>• fighting etc. (s.8);</li> <li>• breach of duty to ensure welfare (s.9);</li> <li>• breach of licensing or registration requirements (s.13(6) and 13(9)).</li> </ul> <p>The court may instead of, or in addition to, dealing with the offender in any other way, make a disqualification order.</p>
<b>Content of the order</b>	<p>The order may disqualify the offender from:</p> <ul style="list-style-type: none"> <li>• owning or keeping animals;</li> <li>• participating in the keeping of animals;</li> <li>• being party to an arrangement under which they are entitled to control or influence the way in which animals are kept;</li> <li>• dealing in animals; and/or</li> <li>• transporting or arranging the transport of animals.</li> </ul> <p>In imposing a disqualification order the court can impose <b>an all animals order</b> involving a prohibition against owning or keeping etc any animal or <b>an order limited to a certain type of animal</b>. An order cannot specify a number of animals that can be kept etc.</p>

---

<b>Purpose of the order</b>	The purpose of a disqualification order is to protect the future welfare of animals.
<b>Length of the order</b>	For such period as the court thinks fit.  The court may specify a period during which the offender may not make an application under section 43(1) for termination of the order.
<b>Reasons</b>	The court is required to give reasons if it decides not to make such an order.
<b>Consequences of breach</b>	Breach of a disqualification order is a criminal offence, maximum penalty six months' custody or an unlimited fine.  <a href="#"><u>Breach of disqualification from keeping an animal.</u></a>

---

**Sentencing guidelines that will include a drop down of this guidance:**

- Animal cruelty
- Failure to ensure animal welfare

**Question 8: Do you have any comments on the content of the animal disqualification order guidance, or on the list of sentencing guidelines which will include this guidance?**

---

# Compensation order

## Guidance

The proposed guidance on compensation orders expands on the guidance currently in the supplementary materials.

Guideline users should be aware that the [Equal Treatment Bench Book](#) covers important aspects of fair treatment and disparity of outcomes for different groups in the criminal justice system. It provides guidance which sentencers are encouraged to take into account wherever applicable, to ensure that there is fairness for all involved in court proceedings.

<b>May be made by:</b>	<b>A magistrates' court or the Crown Court</b>
<b>Relevant legislation</b>	<a href="#">Chapter 2 of Part 7 of the Sentencing Code</a>
<b>Availability</b>	<ol style="list-style-type: none"> <li>1. The court must consider making a compensation order in any case where personal injury, loss or damage has resulted from the offence. It can either be an ancillary order, or, a sentence in its own right (which does not attract a surcharge). The court must give reasons if it decides not to order compensation (<a href="#">Sentencing Code, s.55</a>).</li> <li>2. There is no statutory limit on the amount of compensation that may be imposed in respect of offences for an offender aged 18 or over. Compensation may also be ordered in respect of offences taken into consideration (<a href="#">Sentencing Code, s.139</a>).</li> <li>3. If there are multiple victims who are to receive compensation, a separate compensation order must be made in relation to each one.</li> <li>4. Where the personal injury, loss or damage arises from a road accident, a compensation order may be made only if there is a conviction for an offence under the Theft Act 1968, or the offender is uninsured and the Motor Insurers' Bureau will not cover the loss (<a href="#">Sentencing Code s. 136</a>).</li> </ol>
<b>Considerations</b>	<ol style="list-style-type: none"> <li>5. Subject to consideration of the victim's views (<b>see paragraph 7 below</b>), the court must order compensation wherever possible and should not have regard to the availability of other sources such as civil litigation or the Criminal Injuries Compensation Scheme. Any amount paid by an offender under a compensation order will generally be deducted from a subsequent civil award or payment under the Scheme to avoid double compensation. Victims who suffer minor injuries will usually not be eligible to claim</li> </ol>

under the Criminal Injuries Compensation Scheme. It is therefore of greater importance that appropriate applications for compensation are made during criminal sentencing exercises. A guide to suggested amounts for specific injuries commonly seen in magistrates' courts is provided below.

6. Compensation may be ordered for such amount as the court considers appropriate having regard to any evidence and any representations made by the offender or prosecutor. The court must also take into account the offender's means (**see also paragraphs 10 -12 below**).
7. Compensation should benefit, not inflict further harm on, the victim. Any financial recompense from the offender may cause distress. A victim may or may not want compensation from the offender and assumptions should not be made either way. The victim's views are properly obtained through sensitive discussion by the police or witness care unit, when it can be explained that the offender's ability to pay will ultimately determine whether, and how much, compensation is ordered and whether the compensation will be paid in one lump sum or by instalments. If the victim does not want compensation, this should be made known to the court and respected.
8. In cases where it is difficult to ascertain the full amount of the loss suffered by the victim, consideration should be given to making a compensation order for an amount representing the agreed or likely loss. Where relevant information is not immediately available, it may be appropriate to grant an adjournment if it would enable it to be obtained. **However**, compensation orders are for straightforward cases and a court should not embark on a detailed inquiry as to the extent of any injury, loss or damage – that is better left to civil proceedings, but the making of a compensation order does not preclude a victim from making a civil claim at a later date, subject to the Limitation Act 1980.
9. The court should consider two types of loss:
  - financial loss sustained as a result of the offence such as the cost of repairing damage or, in case of injury, any loss of earnings or medical expenses;
  - pain and suffering caused by the injury (including terror, shock or distress) and any interference with day to day activities. This should be assessed in light of all factors that appear to the court to be relevant, including any medical evidence, the victim's age and personal circumstances.
10. Once the court has formed a preliminary view of the appropriate level of compensation, it must have regard to the means of the offender so far as they are known. Where

	<p>the offender has little money, the order may have to be scaled down or additional time allowed to pay; the court may allow compensation to be paid over a period of up to three years in appropriate cases.</p>
<p><b>Combining compensation with a custodial sentence</b></p>	<p>11. The fact that a custodial sentence is imposed does not, in itself, make it inappropriate to order compensation; however, it may be relevant to whether the offender has the means to satisfy the order. <b>Magistrates should consult their legal adviser in any case where they are considering combining compensation with a custodial sentence.</b></p>
<p><b>Effect on other financial orders</b></p>	<p>12. Where the court considers that it would be appropriate to impose a fine and a compensation order but the offender has insufficient means to pay both, priority should be given to compensation. Compensation also takes priority over the surcharge where the offender's means are an issue.</p>
<p><b>Collection order</b></p>	<p>13. The court must make an order ("a collection order") relating to the payment of the sum due, unless it appears to the court that it is impracticable or inappropriate to make the order.</p> <p>The collection order must state:</p> <ul style="list-style-type: none"> <li>(a) the amount of the sum due, including the amount of any fine, compensation order or other sum</li> <li>(b) whether the court considers the offender to be an existing defaulter and if so whether the existing default (or defaults) can be disregarded</li> <li>(c) whether the court has made an attachment of earnings order or an application for benefit deductions</li> <li>(d) if the court has not made an attachment of earnings order or application for benefit deductions, the payment terms</li> <li>(e) if an attachment of earnings order or application for benefit deductions has been made, the reserve terms (in other words, the payment terms that will apply if the AEO or ABD fails). It will often be appropriate to set a reserve term of payment in full within 14 days.</li> </ul> <p><a href="#">Schedule 5 to the Courts Act 2003</a></p>
<p><b>Consequences of non-payment</b></p>	<p>14. Failure to pay a compensation order is a criminal matter and carries a penal sanction.</p>
<p><b>Crown Court only</b></p>	<p>15. No sentence in default can be imposed unless the compensation order is for £20,000 or more, in which case it is enforceable as a fine of such an amount.</p>

**Sentencing guidelines that will include a drop down of this guidance:**

- Aggravated burglary
  - Abstracting electricity
  - Affray
  - Animal cruelty
  - Arranging or facilitating the commission of a child sex offence
  - Arson (criminal damage by fire)
  - Arson/criminal damage with intent to endanger life or reckless as to whether life endangered
  - Assault occasioning actual bodily harm / Racially or religiously aggravated ABH
  - Assault with intent to resist arrest
  - Attempted murder
  - Benefit Fraud
  - Breach of a criminal behaviour order
  - Breach of a protective order (restraining and non-molestation orders)
  - Breach of a sexual harm prevention order
  - Breach of disqualification from acting as a director
  - Breach of disqualification from keeping an animal
  - Bribery
  - Causing grievous bodily harm with intent to do grievous bodily harm / Wounding with intent to do GBH
  - Common assault / Racially or religiously aggravated common assault/ Battery/ Common assault on emergency worker
  - Communication network offences (Revised 2017)
  - Corporate offenders: fraud, bribery and money laundering
  - Criminal damage (other than by fire) value exceeding £5,000/ Racially or religiously aggravated criminal damage
  - Criminal damage (other than by fire) value not exceeding £5,000/ Racially or religiously aggravated criminal damage
  - Disclosing or threatening to disclose private sexual images
  - Disorderly behaviour with intent to cause harassment, alarm or distress/ Racially or religiously aggravated disorderly behaviour with intent to cause harassment, alarm or distress
  - Disorderly behaviour/ Racially or religiously aggravated disorderly behaviour
  - Domestic burglary
  - Drunk and disorderly in a public place (Revised 2017)
  - Failure to ensure animal welfare
  - Football related offences (Revised 2017)
  - Fraud
-

- 
- Going equipped for theft or burglary
  - Handling stolen goods
  - Harassment (fear of violence)/ Stalking (fear of violence)/ Racially or religiously aggravated harassment (fear of violence)/stalking (fear of violence)
  - Harassment/ Stalking/ Racially or religiously aggravated harassment/stalking
  - Individuals: Breach of duty of employer towards employees and non-employees/  
Breach of duty of self-employed to others/ Breach of duty of employees at work/  
Breach of Health and Safety regulations/ Secondary liability
  - Individuals: Breach of food safety and food hygiene regulations
  - Individuals: Trade mark, unauthorised use of etc.
  - Individuals: Unauthorised or harmful deposit, treatment or disposal etc of waste/ Illegal discharges to air, land and water
  - Inflicting grievous bodily harm/ Unlawful wounding/ Racially or religiously aggravated GBH/ Unlawful wounding
  - Making Off Without Payment
  - Money laundering
  - Non-domestic burglary
  - Organisations: Breach of duty of employer towards employees and non-employees/  
Breach of duty of self-employed to others/ Breach of Health and Safety regulations
  - Organisations: Breach of food safety and food hygiene regulations
  - Organisations: Trade mark, unauthorised use of etc.
  - Organisations: Unauthorised or harmful deposit, treatment or disposal etc of waste/  
Illegal discharges to air, land and water
  - Owner or person in charge of a dog dangerously out of control in any place in England or Wales (whether or not a public place)
  - Owner or person in charge of a dog dangerously out of control in any place in England or Wales (whether or not a public place) where a person is injured
  - Owner or person in charge of a dog dangerously out of control in any place in England or Wales (whether or not a public place) where an assistance dog is injured or killed
  - Owner or person in charge of a dog dangerously out of control in any place in England or Wales (whether or not a public place) where death is caused
  - Possession of articles for use in frauds/ Making or supplying articles for use in frauds
  - Racial hatred offences/ Hatred against persons on religious grounds or grounds of sexual orientation
  - Railway fare evasion (Revised 2017)
  - Revenue fraud
  - Riot
  - Robbery – dwelling
  - Robbery – professionally planned commercial
  - Robbery – street and less sophisticated commercial
  - Slavery, servitude and forced or compulsory labour/ Human trafficking
  - Theft - general
-



- Theft from a shop or stall
- Threatening behaviour – fear or provocation of violence/ Racially or religiously aggravated threatening behaviour – fear or provocation of violence
- Threats to destroy or damage property
- Threats to kill
- Vehicle interference (Revised 2017)
- Vehicle taking (aggravated). Damage caused to property other than the vehicle in accident or damage caused to vehicle
- Vehicle taking (aggravated). Dangerous driving or accident causing injury
- Vehicle taking, without consent (Revised 2017)
- Violent disorder
- Witness intimidation
- Domestic abuse – overarching principles

**Question 9: Do you have any comments on the content of the compensation order guidance, or on the list of sentencing guidelines which will include this guidance?**

### Suggested levels of compensation for injuries

The supplementary materials also includes a [table of suggested starting points for lower level physical and mental injuries](#). These levels were set to align with the approach in the [Criminal Injuries Compensation Scheme 2012 \(amended 2019\)](#). The Council is of the view that the suggested levels should instead be set to align with those awarded in civil damages. This would mean that victims would not have to make separate civil claims to obtain a fair redress for injuries suffered in criminal cases.

The Council therefore proposes the following:

#### **Suggested starting points for lower level physical and mental injuries**

The tables below provide ranges for compensation for commonly encountered physical and mental injuries. The ranges are consistent with the sums recoverable in civil claims. Where within the range a particular case will fall will depend upon the seriousness of injury within the relevant category and the effects of the injury on the victim. The ranges must be used in conjunction with the general guidance on compensation

Guideline users should be aware that the [Equal Treatment Bench Book](#) covers important aspects of fair treatment and disparity of outcomes for different groups in the criminal



justice system. It provides guidance which sentencers are encouraged to take into account wherever applicable, to ensure that there is fairness for all involved in court proceedings.

### Physical injury

Type of injury	Description	Suggested range
Minor eye injuries	Such as being struck in the eye, exposure to fumes including smoke, or being splashed by liquids, causing initial pain and some temporary interference with vision.	£4,820 to £10,660
Transient eye injuries	In these cases the injured person will have recovered completely within a few weeks.	£2,690 to £4,820
Nose	Displaced fracture where recovery is complete but only after surgery.	£4,820 to £6,230
Nose	Displaced fracture requiring no more than manipulation	£3,080 to £3,850
Nose	Simple undisplaced fracture with full recovery	£2,080 to £3,080
Fracture of cheekbones	Simple fracture of cheekbones for which some reconstructive surgery is necessary but from which there is a complete recovery with no or only minimal cosmetic effects.	£5,310 to £7,880
Fracture of cheekbones	Simple fracture of cheekbone for which no surgery is required and where a complete recovery is effected	£2,830 to £3,650
Damage to teeth	Loss of or serious damage to several front teeth.	£10,660 to £13,930
Damage to teeth	Loss of or serious damage to two front teeth. The loss of two front teeth will attract an award in the middle to upper end of this bracket and damage to two front teeth or loss of two milk teeth will attract an award at the lower end	£5,310 to £9,310
Damage to teeth	Loss of or serious damage to one front tooth	£2,690 to £4,820

Damage to teeth	Loss of or damage to back teeth: per tooth	£1,330 to £2,080
Facial scarring	One scar or, a number of very small scars, where the overall effect is to mar but not markedly affect the appearance and the reaction is no more than that of an ordinarily sensitive person. Cases involving one single scar (not hyperpigmented or keloid) that can be hidden or camouflaged and do not represent any significant cosmetic blemish are likely to attract an award at the lowest end of the bracket.	£4,820 to £16,770
Facial scarring	Trivial scarring where the effect is minor	£2,080 to £4,310
Arm	Simple fractures of the forearm	£8,060 to £23,430
Elbow	Simple fractures, tennis elbow syndrome, and lacerations; i.e. those injuries which cause no permanent damage and do not result in any permanent impairment of function resolving in one to two years	£4,310 to £7,930
Shoulder	Soft tissue injury to shoulder with considerable pain but almost complete recovery within a year	£2,990 to £5,310
Shoulder	Soft tissue injury to shoulder with considerable pain but almost complete recovery within three months	Up to £2,990
Shoulder	Fracture of clavicle depending on the extent of fracture, level of disability, residual symptoms, whether temporary or permanent, and whether union is anatomically displaced	£6,280 to £14,940
Minor hand, finger, and thumb injuries	Including fractures which generally have recovered in six months. Also injuries such as scarring, tenderness, and reaction to the cold where there is full recovery	Up to £5,800
Wrist	An uncomplicated Colles fracture	£9,070
Wrist	Very minor undisplaced or minimally displaced fractures and soft tissue injuries necessitating application of plaster or bandage for a matter of weeks	£4,310 to £5,790

	and a full or virtual recovery within one year	
Ankle	Minor or undisplaced fractures, sprains, and ligamentous injuries – complete recovery in one year	Up to £6,710
Hips and pelvis	Minor soft tissue injuries with complete recovery	Up to £4,820
Leg	Simple fractures to tibia or fibula with complete recovery	£8,640 to £11,050
Leg	Soft tissue injuries, muscle tears, lacerations, cuts, bruising, or contusions with substantial recovery within a few months	Up to £2,990
Knee	Injuries involving dislocation, torn cartilage or meniscus where recovery has been complete or almost complete	Up to £7,370
Knee	A soft tissue strain-type injury that does not significantly impact on daily activities and gradually resolves within six to seven months	£2,750
Other injuries not referred to above where there is a complete recovery within seven days.	Examples <b>may</b> include grazing, bruising, small cuts where there is no scar	£200 to £840
Other injuries not referred to above where there is a complete recovery within 28 days.	Examples <b>may</b> include black eye, bruising, cuts where there is no permanent scar	£840 to £1,680
Other injuries not referred to above where there is a complete recovery within three months.	Examples <b>may</b> include bruising, cuts where there is no permanent scar	£1,680 to £2,990

### Mental injury

Description	Suggested range
-------------	-----------------

Temporary mental anxiety (including terror, shock, distress) not medically verified	£200 to £840
Disabling mental anxiety, lasting up to 6 weeks, medically verified*	£840 to £1,880
Disabling mental illness, lasting up to 28 weeks, confirmed by psychiatric diagnosis*	£1,880 to £7,150

\* mental injury is disabling if it has a substantial adverse effect on a person's ability to carry out normal day-to-day activities for the time specified (e.g. impaired work or school performance or effects on social relationships or sexual dysfunction).

### Physical and sexual abuse

It will be rare for cases involving this type of harm to be dealt with in a magistrates' court and it will be important for magistrates to **consult their legal adviser for guidance in these situations.**

Compensation will include damages for the sexual and/or physical abuse itself as well as any psychiatric injury caused to the injured person. Where the abuse is a lower level of seriousness and short-lived and the psychological effects are mild or resolved quickly, or the prognosis for resolution with treatment is very good, compensation will be in the range of £11,870 to £25,100

**Question 10: Do you have any comments on the proposed suggested starting points for compensation?**

# Confiscation order

Guideline users should be aware that the [Equal Treatment Bench Book](#) covers important aspects of fair treatment and disparity of outcomes for different groups in the criminal justice system. It provides guidance which sentencers are encouraged to take into account wherever applicable, to ensure that there is fairness for all involved in court proceedings.

<b>May be made by:</b>	<b>The Crown Court</b>
<b>Relevant legislation</b>	<a href="#">Part 2 of the Proceeds of Crime Act 2002</a>
<b>Availability</b>	<ol style="list-style-type: none"> <li>1. Confiscation orders under the Proceeds of Crime Act 2002 may only be made by the Crown Court. The Crown Court must proceed with a view to making a confiscation order if it is asked to do so by the prosecutor or if the Crown Court believes it is appropriate for it to do so.</li> <li>2. Where, following conviction in a magistrates' court, the prosecutor applies for the offender to be committed to the Crown Court with a view to a confiscation order being considered, the magistrates' court must commit the offender to the Crown Court to be sentenced there (<a href="#">section 70 of the Proceeds of Crime Act 2002</a>).</li> <li>3. Where, but for the prosecutor's application under s.70, the magistrates' court would have committed the offender for sentence to the Crown Court anyway it must say so. Otherwise the powers of sentence of the Crown Court will be limited to those of the magistrates' court.</li> <li>4. Confiscation must be dealt with before, and taken into account when assessing, any other fine or financial order (except compensation). If the court makes both a confiscation order and an order for compensation and the court believes the offender will not have sufficient means to satisfy both orders in full, the court must direct that the compensation be paid out of sums recovered under the confiscation order. (See Proceeds of Crime Act 2002 <a href="#">sections 6</a> and <a href="#">13</a>)</li> </ol>

<b>Considerations</b>	<p>5. Although often the parties agree some or all of the figures in such cases, ultimately it is for the Judge to make a proportionate order following his/her assessment of the facts.</p> <p>6. Where an order is made following an agreement by the parties this should be recorded in the order and it is prudent to ensure that the offender signs the schedule of available or realisable assets. Where an order is made after a contested hearing, it will follow the court's findings of fact.</p>											
<b>Payment</b>	<p>The full amount ordered to be paid under a confiscation order must be paid on the day on which the order is made unless the court is satisfied that the offender is unable to pay the full amount on that day in which case the court may make an order requiring whatever cannot be paid on that day to be paid in a specified period, or specified periods each of which relates to a specified amount. Any specified period must not exceed three months from the date of the order. If within any specified period D applies to the court for that period to be extended the court may, on being satisfied that D has made all reasonable efforts to comply, make an order extending the period for up to six months from the date of the order.</p>											
<b>Sentences in default</b>	<table border="1"> <thead> <tr> <th data-bbox="536 1202 660 1234"><b>Amount</b></th> <th data-bbox="1150 1202 1254 1234"><b>Period</b></th> </tr> </thead> <tbody> <tr> <td data-bbox="536 1240 759 1272">£10,000 or less</td> <td data-bbox="1150 1240 1286 1272">6 months</td> </tr> <tr> <td data-bbox="536 1279 1059 1348">More than £10,000 but no more than £500,000</td> <td data-bbox="1150 1279 1259 1310">5 years</td> </tr> <tr> <td data-bbox="536 1355 1078 1424">More than £500,000 but no more than £1,000,000</td> <td data-bbox="1150 1355 1259 1386">7 years</td> </tr> <tr> <td data-bbox="536 1431 852 1462">More than £1,000,000</td> <td data-bbox="1150 1431 1278 1462">14 years</td> </tr> </tbody> </table>	<b>Amount</b>	<b>Period</b>	£10,000 or less	6 months	More than £10,000 but no more than £500,000	5 years	More than £500,000 but no more than £1,000,000	7 years	More than £1,000,000	14 years	
<b>Amount</b>	<b>Period</b>											
£10,000 or less	6 months											
More than £10,000 but no more than £500,000	5 years											
More than £500,000 but no more than £1,000,000	7 years											
More than £1,000,000	14 years											

### Sentencing guidelines that will include a drop down of this guidance:

- Corporate offenders: fraud, bribery and money laundering
- Firearms – Transfer and manufacture
- Fraud
- Fraudulent evasion of a prohibition by bringing into or taking out of the UK a controlled drug
- Going equipped for theft or burglary
- Handling stolen goods
- Importing or exporting a psychoactive substance
- Individuals: Breach of duty of employer towards employees and non-employees/  
Breach of duty of self-employed to others/ Breach of duty of employees at work/  
Breach of Health and Safety regulations/ Secondary liability

- 
- Individuals: Breach of food safety and food hygiene regulations
  - Individuals: Sale of knives etc by retailers to persons under 18
  - Individuals: Trade mark, unauthorised use of etc
  - Individuals: Unauthorised or harmful deposit, treatment or disposal etc of waste/ Illegal discharges to air, land and water
  - Making Off Without Payment
  - Money laundering
  - Organisations: Breach of duty of employer towards employees and non-employees/ Breach of duty of self-employed to others/ Breach of Health and Safety regulations
  - Organisations: Breach of food safety and food hygiene regulations
  - Organisations: Sale of knives etc by retailers to persons under 18
  - Organisations: Trade mark, unauthorised use of etc.
  - Organisations: Unauthorised or harmful deposit, treatment or disposal etc of waste/ Illegal discharges to air, land and water
  - Permitting premises to be used
  - Possession of articles for use in frauds/ Making or supplying articles for use in frauds
  - Production of a controlled drug/ Cultivation of cannabis plant
  - Revenue fraud
  - Slavery, servitude and forced or compulsory labour/ Human trafficking
  - Supplying or offering to supply a controlled drug/ Possession of a controlled drug with intent to supply it to another
  - Supplying or offering to supply a psychoactive substance/ Possession of psychoactive substance with intent to supply
  - Theft – general
  - Theft from a shop or stall

**Question 11: Do you have any comments on the content of the confiscation order guidance, or on the list of sentencing guidelines which will include this guidance?**

---

# Criminal behaviour order

Guideline users should be aware that the [Equal Treatment Bench Book](#) covers important aspects of fair treatment and disparity of outcomes for different groups in the criminal justice system. It provides guidance which sentencers are encouraged to take into account wherever applicable, to ensure that there is fairness for all involved in court proceedings.

<b>May be made by:</b>	<b>A magistrates' court or the Crown Court</b>
<b>Relevant legislation</b>	<a href="#">Sentencing Act 2020, Part 11, Chapter 1</a>
<b>Nature of the order</b>	<p>A CBO is an order which is made for the purpose of preventing the offender from engaging in behaviour that is likely to cause harassment, alarm or distress to any person in the future.</p> <p>The order</p> <ul style="list-style-type: none"> <li>• prohibits the offender from doing anything described in the order, and/or</li> <li>• requires the offender to do anything described in the order.</li> </ul>
<b>Notice</b>	The prosecutor must serve a notice of intention to apply for a CBO as soon as practicable (Criminal Procedure Rule 31.3)
<b>Availability</b>	<p>The court can only consider whether to make a CBO if <b>all</b> of the following pre-conditions are met:</p> <ul style="list-style-type: none"> <li>• the person has been convicted of an offence</li> <li>• the prosecutor has made an application to the court for a CBO to be made against the offender</li> <li>• the CBO would be made in addition to dealing with the offender for the offence, and</li> <li>• the offender has not been absolutely discharged in respect of the offence.</li> </ul> <p><a href="#">(Sentencing Code, s331(1), (2))</a></p> <p>For special considerations where the application for a CBO is made against an offender aged under 18, see below.</p> <p>For the power to adjourn an application for a CBO until after the offender has been sentenced for the offence (and to make an interim order during the adjournment), see below.</p>



---

<b>Test to be applied</b>	<p>The court may make a CBO against the offender if it</p> <ul style="list-style-type: none"><li>• is satisfied that the offender has engaged in behaviour that caused or was likely to cause harassment, alarm or distress to any person, and</li><li>• considers that making the order will help in preventing the offender from engaging in such behaviour.</li></ul> <p><a href="#">(Sentencing Code, s331(2)).</a></p>
<b>General considerations</b>	<p>A CBO is an order designed to tackle the most serious and persistent anti-social individuals where their behaviour has brought them before a criminal court.</p> <p>The behaviour to be addressed does not need to be connected to the criminal behaviour, or activity which led to the conviction. However, if there is no link the court will need to reflect on the reasons for making the order.</p> <p>A CBO can deal with a wide range of anti-social behaviour following the offender's conviction, for example threatening violence against others in the community, or persistently being drunk and aggressive in public. However, the order should not be designed to stop reasonable, trivial or benign behaviours that have not caused, or are not likely to cause anti-social behaviour.</p>
<b>Deciding whether the offender has engaged in the relevant behaviour</b>	<p>The court must decide whether the offender has engaged in the behaviour alleged and also whether that behaviour caused or was likely to cause harassment, alarm or distress to any person.</p> <p>The standard of proof is the criminal standard.</p> <p>For this purpose, evidence may be led by the prosecution and/or the offender.</p> <p>The strict rules of evidence do not apply. It does not matter whether the evidence would have been admissible in the proceedings in which the offender was convicted. But the evidence must be relevant to the test to be applied to the making of the order. This evidence could include hearsay or bad character.</p>

---

	<p>Special measures are available for witnesses who are vulnerable and intimidated witnesses in accordance with the Youth Justice and Criminal Evidence Act 1999 (<a href="#">Sentencing Code, s340</a>).</p>
<p><b>Content of the order</b></p>	<p>A CBO may include prohibitions and/or requirements, which must be:</p> <ul style="list-style-type: none"> <li>• proportionate, reasonable and tailored to the specific needs of each offender</li> <li>• realistic, practical and precise</li> <li>• capable of being understood by the offender, and</li> <li>• sufficiently clear so that any breach can be prosecuted.</li> </ul> <p>A CBO should not prohibit particular conduct which itself constitutes a criminal offence where the purpose of the order is to provide for an increased penalty in the event of repetition in breach of the order.</p> <p>Prohibitions and requirements in a CBO must, so far as practicable, be such as to avoid—</p> <ul style="list-style-type: none"> <li>• any interference with the times, if any, at which the offender normally works or attends school or any other educational establishment, and</li> <li>• any conflict with the requirements of any other court order to which the offender may be subject.</li> </ul> <p>There is no power to make any prohibition or requirement in a CBO subject to electronic monitoring.</p>
<p><b>Requirements in a CBO</b></p>	<p>A criminal behaviour order that includes a requirement must specify the person (individual or organisation) who is to be responsible for supervising compliance with the requirement.</p> <p>The court must also receive evidence about its suitability and enforceability from that individual or an individual representing the organisation.</p> <p>If the criminal behaviour order includes two or more requirements, the court must consider their compatibility with each other.</p>
<p><b>Length of the order</b></p>	<p>The CBO must specify the period for which it has effect.</p>

### Special considerations for offenders who are children aged under 18

Where the offender is an adult (when the order is made), the order must be for either a fixed period of not less than 2 years, or an indefinite period (so that the order has effect until further order).

See below as to the duration of a CBO made against a child.

The order may specify periods for which particular prohibitions or requirements have effect.

See Section 1 (sentencing principles and welfare) and Section 3 (parental responsibilities) of the Sentencing Children and Young People guideline.

#### **Duty to obtain views of Youth Justice Services**

The prosecution must find out the views of the local youth offending team before applying for a criminal behaviour order. ([Sentencing Act 2020, s.331\(5\)](#)).

#### **Length of the CBO**

The order must be for a fixed period of length between 1 and 3 years. ([Sentencing Act 2020, s.334\(4\)](#)).

#### **Parenting order on making of CBO**

Where the court has made a CBO against an offender aged under 16, it **must** make a parenting order if doing so would be desirable in the interests of preventing any repetition of the kind of behaviour which led to the CBO being made.

The court **may** make a parenting order in the case on offender aged 16 or 17 where that condition is fulfilled

([Crime and Disorder Act 1998, ss.8 and 9](#)).

### Effect on earlier orders

The CBO takes effect on the day it is made unless the offender is already subject to a criminal behaviour order in which case the new order may be made so as to take effect on the day on which the previous order ceases to have effect.

### Explaining the order

The CBO must be explained to the offender, and the exact terms of the order pronounced in open court.

**Adjournments and Interim CBOs**

The court may adjourn hearing the application for a CBO until after the offender has been sentenced for the offence.

If the offender fails to appear on the adjourned date, the court has powers to issue a warrant or proceed in absence.

The court can make an interim order if the it thinks it is just to do so. An interim order can be made until final hearing or further order.

When making an interim CBO, the court has the same powers as if it were making a final order.

**Consequences of breach**

Breach of a criminal behaviour order is a criminal offence, with a maximum penalty of 5 years' custody or an unlimited fine.

[Breach of a criminal behaviour order guideline.](#)

**Sentencing guidelines that will include a drop down of this guidance:**

- Affray
- Disorderly behaviour with intent to cause harassment, alarm or distress/ Racially or religiously aggravated disorderly behaviour with intent to cause harassment, alarm or distress
- Riot
- Supplying or offering to supply a controlled drug/ Possession of a controlled drug with intent to supply it to another
- Supplying or offering to supply a psychoactive substance/ Possession of psychoactive substance with intent to supply.
- Threatening behaviour – fear or provocation of violence/ Racially or religiously aggravated threatening behaviour – fear or provocation of violence
- Violent Disorder

**Question 12: Do you have any comments on the content of the criminal behaviour order guidance, or on the list of sentencing guidelines which will include this guidance?**

# Deprivation of property order

Guideline users should be aware that the [Equal Treatment Bench Book](#) covers important aspects of fair treatment and disparity of outcomes for different groups in the criminal justice system. It provides guidance which sentencers are encouraged to take into account wherever applicable, to ensure that there is fairness for all involved in court proceedings.

<b>May be made by</b>	<b>A magistrates' court or the Crown Court</b>
<b>Relevant legislation</b>	<a href="#">Sentencing Act 2020, Part 7, Chapter 4</a>
<b>Availability</b>	<p>The court has the power to deprive an offender of any property used, or intended to be used, for the purpose of committing or facilitating the commission of an offence, whether or not it deals with the offender in any other way. This includes where it is committed by aiding, abetting, counselling, or procuring.</p> <p>Facilitating the commission of the offence includes any steps taken to, either dispose of any property relating to the offence or avoid apprehension or detection.</p>
<b>Vehicles used for the purpose of certain offences</b>	<p>A vehicle is to be treated as used for the purpose of certain offences (see below) where the person commits the offence by:</p> <ul style="list-style-type: none"> <li>• driving; attempting to drive, or being in charge of a vehicle,</li> <li>• failing to provide a specimen or give permission for such a test in the course of an investigation into whether they had committed an offence while driving, attempting to drive or being in charge of a vehicle. Road Traffic Act 1988 section 7 or 7A, or</li> <li>• failing, as the driver of a vehicle, to stop and give information or report an accident. Road Traffic Act 1988, section 170(2) and (3).</li> </ul> <p>Those offences are:</p> <ul style="list-style-type: none"> <li>• an offence under the Road Traffic Act 1988 which is punishable with imprisonment</li> <li>• an offence of manslaughter</li> <li>• an offence under section 35 of the Offences against the Person Act 1861 (wanton and furious driving).</li> </ul>

**Considerations**

The court must have regard to the value of the property and the likely financial and other effects on the offender of making the order.

If the court considers that the offence related to immigration or asylum, or was committed for a purpose in connection with immigration or asylum, it may order that the property is to be taken into the possession of the Secretary of State.

**Sentencing guidelines that will include a drop down of this guidance:**

- Alcohol sale offences
- Bladed article etc guidelines
- Excess alcohol (drive/ attempt to drive)
- Excess alcohol (in charge)
- Fail to provide specimen for analysis (drive/ attempt to drive)
- Fail to provide specimen for analysis (in charge)
- Fail to stop/ report road accident
- Firearms- importation
- Immigration guidelines (once published)
- Individuals: Trade mark, unauthorised use of etc
- Individuals: Unauthorised or harmful deposit, treatment or disposal etc of waste/ Illegal discharges to air, land and water
- Money laundering
- Organisations: Trade mark, unauthorised use of etc.
- Organisations: Unauthorised or harmful deposit, treatment or disposal etc of waste/ Illegal discharges to air, land and water
- Revenue fraud
- Taxi touting/soliciting for hire
- Unfit through drink or drugs (drive/ attempt to drive)
- Unfit through drink or drugs (in charge)

**Question 13: Do you have any comments on the content of the deprivation of property order guidance, or on the list of sentencing guidelines which will include this guidance?**

# Destruction and contingent destruction order – Dangerous Dogs Act

Guideline users should be aware that the [Equal Treatment Bench Book](#) covers important aspects of fair treatment and disparity of outcomes for different groups in the criminal justice system. It provides guidance which sentencers are encouraged to take into account wherever applicable, to ensure that there is fairness for all involved in court proceedings.

<b>May be made by</b>	<b>A magistrates' court or the Crown Court</b>
<b>Relevant legislation</b>	<p><a href="#">Dangerous Dogs Act 1991, section 4</a></p> <p><a href="#">Dangerous Dogs Act 1991, section 4A</a></p>
<b>Destruction Order Availability</b>	<p>Where a person is convicted of:</p> <ul style="list-style-type: none"> <li>• an offence under <a href="#">section 1</a> (dogs bred for fighting);</li> <li>• an offence under <a href="#">section 3(1)</a> (keeping dogs under proper control); or</li> <li>• an offence created by an order under <a href="#">section 2</a> (other specifically dangerous dogs)</li> </ul> <p>the court <b>may</b> order the destruction of any dog in respect of which the offence was committed and <b>shall do so</b> in the case of an offence under section 1 or an aggravated offence under section 3(1) (injury caused), <b>unless</b> the court is satisfied that the dog would not constitute a danger to public safety.</p>
<b>Considerations</b>	<p>When deciding whether a dog would constitute a danger to public safety, the court must consider:</p> <ul style="list-style-type: none"> <li>• the temperament of the dog and its past behaviour, and</li> <li>• whether the owner of the dog, or the person for the time being in charge of it, is a fit and proper person to be in charge of the dog,</li> </ul> <p>and may consider any other relevant circumstances.</p>

**Contingent  
Destruction Order****Fit and proper person:**

In determining whether a person is a fit and proper person to be in charge of a dog the following non-exhaustive factors may be relevant:

- any relevant previous convictions, cautions or penalty notices;
- the nature and suitability of the premises that the dog is to be kept at by the person;
- where the police have released the dog pending the court's decision whether the person has breached conditions imposed by the police; and
- any relevant previous breaches of court orders.

- Where the offender was convicted of an offence under:
  - section 1 (dogs bred for fighting) and the dog is subject to the prohibition in section 1(3); or
  - an aggravated offence under section 3(1) (injury caused)

and the court does not order the destruction of the dog, the court shall order that, unless the dog is exempted from that prohibition within 2 months (which can be extended), the dog shall be destroyed.

- Where the offender was convicted of an offence under section 3(1) (keeping dogs under proper control), the court may order that, unless the owner of the dog keeps it under proper control, the dog shall be destroyed. The Court may:
  - specify the measures to be taken for keeping the dog under proper control, whether by muzzling, keeping on a lead, excluding it from specified places or otherwise; and
  - if it appears to the court that the dog is a male and would be less dangerous if neutered, may require it to be neutered.



---

<b>Content of the order</b>	<p>The Court may:</p> <ul style="list-style-type: none"><li>• appoint a person to undertake the destruction of the dog; and</li><li>• require any person having custody of it to deliver it up for that purpose; and</li><li>• order the offender to pay such sum as the court may determine to be the reasonable expenses of destroying the dog and of keeping it pending its destruction.</li></ul> <p>Any sum ordered to be paid shall be treated for the purposes of enforcement as if it were a fine imposed on conviction.</p>
<b>Consequences of breach</b>	<p>Breach of a destruction order is a criminal offence, maximum penalty unlimited fine.</p>

---

**Sentencing guidelines that will include a drop down of this guidance:**

- Breeding, selling, exchanging or advertising a prohibited dog
- Owner or person in charge of a dog dangerously out of control in any place in England and Wales (whether or not a public place)
- Owner or person in charge of a dog dangerously out of control in any place in England and Wales (whether or not a public place) where a person is injured
- Owner or person in charge of a dog dangerously out of control in any place in England and Wales (whether or not a public place) where an assistance dog is injured or killed
- Owner or person in charge of a dog dangerously out of control in any place in England and Wales (whether or not a public place) where death is caused
- Possession of a prohibited dog

**Question 14: Do you have any comments on the content of the destruction and contingent destruction order – (Dangerous Dogs Act) guidance, or on the list of sentencing guidelines which will include this guidance?**

---

# Disqualification order – Dangerous Dogs Act

Guideline users should be aware that the [Equal Treatment Bench Book](#) covers important aspects of fair treatment and disparity of outcomes for different groups in the criminal justice system. It provides guidance which sentencers are encouraged to take into account wherever applicable, to ensure that there is fairness for all involved in court proceedings.

<b>May be made by</b>	<b>A magistrates' court or the Crown Court</b>
<b>Relevant legislation</b>	<a href="#">Dangerous Dogs Act 1991</a>
<b>Availability</b>	<p>Where a person is convicted of:</p> <ul style="list-style-type: none"> <li>• an offence under <a href="#">section 1</a> (dogs bred for fighting)</li> <li>• an offence under <a href="#">section 3(1)</a> (keeping dogs under proper control), or</li> <li>• an offence created by an order under <a href="#">section 2</a> (other specifically dangerous dogs)</li> </ul> <p>the court <b>may</b> order the offender to be disqualified for having custody of a dog.</p>
<b>Effect of the order</b>	Where an offender is disqualified, the disqualification relates to any and all dogs. No conditions can be attached to the order.
<b>Length of the order</b>	For such period as the court thinks fit.
<b>Consequences of Breach</b>	Breach of a disqualification order is a criminal offence, maximum penalty unlimited fine.

## Sentencing guidelines that will include a drop down of this guidance:

- Breeding, selling, exchanging or advertising a prohibited dog,
- Owner or person in charge of a dog dangerously out of control in any place in England and Wales (whether or not a public place),
- Owner or person in charge of a dog dangerously out of control in any place in England and Wales (whether or not a public place) where a person is injured
- Owner or person in charge of a dog dangerously out of control in any place in England and Wales (whether or not a public place) where an assistance dog is injured or killed

- Owner or person in charge of a dog dangerously out of control in any place in England and Wales (whether or not a public place) where death is caused,
- Possession of a prohibited dog.

**Question 15: Do you have any comments on the content of the disqualification order (Dangerous Dogs Act) guidance, or on the list of sentencing guidelines which will include this guidance?**

---

# Disqualification from being a company director

Guideline users should be aware that the [Equal Treatment Bench Book](#) covers important aspects of fair treatment and disparity of outcomes for different groups in the criminal justice system. It provides guidance which sentencers are encouraged to take into account wherever applicable, to ensure that there is fairness for all involved in court proceedings.

<b>May be made by</b>	<b>A magistrates' court or the Crown Court</b>
<b>Relevant legislation</b>	<a href="#">Company Directors Disqualification Act 1986</a>
<b>Availability</b>	<p><b>A court may make a disqualification order</b></p> <ol style="list-style-type: none"> <li>1. Where an offender has been convicted of an indictable offence in connection with the promotion, formation, management, liquidation or striking off of a company, with the receivership of a company's property or with his being an administrative receiver of a company (Company Directors Disqualification Act 1986, s.2) or</li> <li>2. Where an offender has been convicted of an offence involving a failure to file documents with, or give notice to, the registrar of companies. If the offence is triable only summarily, disqualification can be ordered only where the offender has been the subject of three default orders or convictions in the preceding five years (Company Directors Disqualification Act 1986, s.5)</li> </ol>
<b>Considerations</b>	The purpose of the disqualification is to protect the public from directors who could seek to abuse their position, as a director, of a limited liability company in the future.
<b>Period of disqualification</b>	<p>(Subject to the maximum – see below)</p> <p>The period should be fixed by reference to the charges alleged and made out against the director.</p> <p>Disqualification periods of 10 years and over should only be imposed in particularly serious cases such as a second disqualification.</p> <p>Disqualification periods of six to 10 years apply to serious cases.</p> <p>Disqualification periods of up to five years are appropriate in less serious cases.</p>

	The length of the order should not be subject to a guilty plea discount, but factors such as previous good character and a plea of guilty may be relevant considerations in determining the level of seriousness.
<b>Effect of the order</b>	Disqualifies an offender from being a director or taking part in the promotion, formation or management of a company.
<b>Maximum length of order</b>	Magistrates' court – 5 years Crown Court – 15 years
<b>Consequences of breach</b>	Breach of a disqualification order is a criminal offence, maximum penalty 2 years' imprisonment. See the <a href="#">Breach of disqualification from acting as a director</a> guideline

### Sentencing guidelines that will include a drop down of this guidance:

- Individuals: Unauthorised or harmful deposit, treatment or disposal etc of waste/ Illegal discharges to air, land and water
- Bribery
- Fraud
- Individuals: Breach of duty of employer towards employees and non-employees/ Breach of duty of self-employed to others/ Breach of duty of employees at work/ Breach of Health and Safety regulations/ Secondary liability
- Individuals: Breach of food safety and food hygiene regulations
- Individuals: Trade mark, unauthorised use of etc.
- Money laundering
- Revenue fraud

**Question 16: Do you have any comments on the content of the disqualification from being a company director order guidance, or on the list of sentencing guidelines which will include this guidance?**

# Football banning order – on conviction

Guideline users should be aware that the [Equal Treatment Bench Book](#) covers important aspects of fair treatment and disparity of outcomes for different groups in the criminal justice system. It provides guidance which sentencers are encouraged to take into account wherever applicable, to ensure that there is fairness for all involved in court proceedings.

<b>May be made by</b>	<b>A magistrates' court or the Crown Court</b>
<b>Relevant legislation</b>	<a href="#">Football Spectators Act 1989, Part II</a>
<b>Availability</b>	Where a person is convicted of a relevant offence the court must make a banning order in respect of the offender unless the court considers that there are particular circumstances relating to the offence or to the offender which would make it unjust in all the circumstances to do so.
<b>Relevant Offences</b>	<p>A "relevant offence" is one listed in <a href="#">Schedule 1</a>.</p> <p>Some offences become relevant if the offence is committed during a period 'relevant' to a football match. The following periods are 'relevant' to a football match (Football Spectators Act 1989, Sch.1 para.4):</p> <p>(a) the period beginning: i) 24 hours before the start of the match; or ii) 24 hours before the time at which it is advertised to start; whichever is the earliest, and ending 24 hours after the end of the match;</p> <p>(b) where a match advertised to start at a particular time on a particular day is postponed to a later day, or does not take place, the period in the advertised day beginning 24 hours before and ending 24 hours after that time.</p>
<b>Considerations</b>	<p>For the purpose of deciding whether to make an order under this section the court may consider evidence led by the prosecution and the defence.</p> <p>It is immaterial whether the evidence would have been admissible in the proceedings in which the offender was convicted.</p> <p>A banning order made on conviction must be made:</p>

	<p>(a) in addition to a sentence imposed in respect of the relevant offence, or</p> <p>(b) in addition to an order discharging the offender conditionally.</p>
<b>The Order</b>	<p>On making a banning order the court must, in ordinary language, explain its effect to the subject of the order.</p>
<b>Content of the order</b>	<ul style="list-style-type: none"> <li>• The order requires the offender to report to a police station within five days, may require the offender to surrender his or her passport, and may impose requirements on the offender in relation to any regulated football matches.</li> <li>• The order may, if the court thinks fit, impose additional requirements on the person subject to the order in relation to any regulated football matches.</li> </ul>
<b>Notification</b>	<p>A banning order must require the person subject to the order to give notification of any of the following events (as set out in <a href="#">section 14E(2B)</a>):</p> <ul style="list-style-type: none"> <li>(a) a change of any of his names</li> <li>(b) the first use by him after the making of the order of a name for himself that was not disclosed by him at the time of the making of the order</li> <li>(c) a change of his home address</li> <li>(d) his acquisition of a temporary address</li> <li>(e) a change of his temporary address or his ceasing to have one</li> <li>(f) his becoming aware of the loss of his passport</li> <li>(g) receipt by him of a new passport</li> <li>(h) an appeal made by him in relation to the order</li> <li>(i) an application made by him under <a href="#">section 14H(2)</a> for termination of the order</li> <li>(j) an appeal made by him under <a href="#">section 23(3)</a> against the making of a declaration of relevance in respect of an offence of which he has been convicted.</li> </ul> <p>A notification required by a banning order must be given before the end of the period of seven days beginning with the day on which the event in question occurs and</p>

	<ul style="list-style-type: none"> <li>• in the case of a change of a name or address or the acquisition of a temporary address, must specify the new name or address</li> <li>• in the case of a first use of a previously undisclosed name, must specify that name, and</li> <li>• in the case of a receipt of a new passport, must give details of that passport.</li> </ul>
<b>Length of the order</b>	<p>Where the order is in addition to a sentence of imprisonment taking immediate effect, the maximum is ten years, and the minimum is six years. “imprisonment” includes any form of detention.</p> <p>In any other case, the maximum is five years, and the minimum is three years.</p>
<b>Reasons</b>	<p>The court is required to give reasons if it decides not to make an order.</p>
<b>Consequences of Breach</b>	<p>Breach of a football banning order is a criminal, maximum penalty six months custody, or a fine not exceeding level 5 on the standard scale, or both.</p> <p><a href="#">Breach offences (other) – Sentencing (sentencingcouncil.org.uk)</a></p>

### Sentencing guidelines that will include a drop down of this guidance:

- Affray
- Disorderly behaviour with intent to cause harassment, alarm or distress/ Racially or religiously aggravated disorderly behaviour with intent to cause harassment, alarm or distress
- Disorderly behaviour/ Racially or religiously aggravated disorderly behaviour
- Drunk and disorderly in a public place
- Football related offences
- Threatening behaviour – fear or provocation of violence/ Racially or religiously aggravated threatening behaviour – fear or provocation of violence
- Violent disorder

**Question 17: Do you have any comments on the content of the football banning order guidance, or on the list of sentencing guidelines which will include this guidance?**



# Forfeiture of drugs and psychoactive substances

Guideline users should be aware that the [Equal Treatment Bench Book](#) covers important aspects of fair treatment and disparity of outcomes for different groups in the criminal justice system. It provides guidance which sentencers are encouraged to take into account wherever applicable, to ensure that there is fairness for all involved in court proceedings.

May be made by	A magistrates' court or the Crown Court
<b>Relevant legislation</b>	<p><a href="#">Misuse of Drugs Act 1971, section 27</a></p> <p><a href="#">Psychoactive Substances Act 2016, section 54</a></p>
<b>Availability – Misuse of Drugs Act offences</b>	<p>Where an offender has been convicted of an offence under:</p> <ul style="list-style-type: none"> <li>• Misuse of Drugs Act 1971</li> <li>• <a href="#">Paragraph 1 of Schedule 2 to the Proceeds of Crime Act 2002</a> (drug trafficking offences) or</li> <li>• <a href="#">Paragraph 10 of Schedule 2 to the Proceeds of Crime Act 2002</a> (inchoate offences)</li> </ul> <p>the court <b>may</b> order that anything shown to the satisfaction of the court to relate to the offence, be forfeited and either destroyed or dealt with in such other manner as the court may order.</p> <p>The court shall not order anything to be forfeited where a person claiming to be the owner of or otherwise interested in it applies to be heard by the court, unless they have been given an opportunity to show cause why the order should not be made.</p>
<b>Availability – Psychoactive Substances Act offences</b>	<p>Where an offender has been convicted of an offence under Psychoactive Substances Act 2016:</p> <ul style="list-style-type: none"> <li>• Section 4 - Producing a psychoactive substance</li> <li>• Section 5 - Supplying, or offering to supply, a psychoactive substance</li> <li>• Section 6 - Aggravation of offence under section 5</li> <li>• Section 7 - Possession of psychoactive substance with intent to supply</li> <li>• Section 8 - Importing or exporting a psychoactive substance</li> </ul>

- Section 9 - Possession of a psychoactive substance in a custodial institution
- Section 26 – Offence of failing to comply with an access prohibition etc, or
- An ancillary offence as defined by section 54(11)

the court must make an order for the forfeiture of any psychoactive substance in respect of which the offence was committed. The court may also make an order for the forfeiture of any other item that was used in the commission of the offence.

Before making a forfeiture order, the court must give an opportunity to make representations to any person (in addition to the convicted person) who claims to be the owner of the item or otherwise to have an interest in it.

Where the court makes a forfeiture order, it may also make such other provision as it considers to be necessary for giving effect to the forfeiture. This may include provision relating to the retention, handling, destruction or other disposal of the item.

#### **Sentencing guidelines that will include a drop down of this guidance:**

- Fraudulent evasion of a prohibition by bringing into or taking out of the UK a controlled drug
- Importing or exporting a psychoactive substance
- Permitting premises to be used
- Possession of a controlled drug/ Possession of a controlled drug with intent to supply it to another
- Possession of psychoactive substance with intent to supply/ Supplying or offering to supply a psychoactive substance
- Producing a psychoactive substance
- Production of a controlled drug/ Cultivation of cannabis plant
- Unfit through drink or drugs (drive/ attempt to drive)
- Unfit through drink or drugs (in charge)

**Question 18: Do you have any comments on the content of the forfeiture of drugs and psychoactive substances order guidance, or on the list of sentencing guidelines which will include this guidance?**

# Forfeiture or suspension of personal licence (supply of alcohol) - Licensing Act 2003

Guideline users should be aware that the [Equal Treatment Bench Book](#) covers important aspects of fair treatment and disparity of outcomes for different groups in the criminal justice system. It provides guidance which sentencers are encouraged to take into account wherever applicable, to ensure that there is fairness for all involved in court proceedings.

May be made by	A magistrates' court or the Crown Court
<b>Relevant legislation</b>	<a href="#">Licensing Act 2003, Part 6</a>
<b>Availability</b>	<p>A personal licence is a licence granted by a licensing authority to an individual which authorises them to supply alcohol, or authorise the supply of alcohol, in accordance with a premises licence.</p> <p>Where the holder of a personal licence is convicted of a relevant offence the court may:</p> <ul style="list-style-type: none"> <li>• order the forfeiture of the licence or</li> <li>• order its suspension for a period not exceeding 6 months.</li> </ul> <p>A relevant offence is one listed in <a href="#">Schedule 4</a>.</p>
<b>Considerations</b>	The court may take account of any previous conviction for a relevant offence.
<b>Further Actions for the court</b>	<p>Where the holder of a personal licence is convicted of a relevant offence the court must (as soon as reasonably practicable) send the relevant licensing authority a notice specifying</p> <ul style="list-style-type: none"> <li>• the name and address of the relevant person</li> <li>• the nature and date of the conviction, and</li> <li>• any sentence passed in respect of it, including whether an order was made to forfeit or suspend the licence, and send a copy of the notice to the relevant person.</li> </ul>

**Sentencing guidelines that will include a drop down of this guidance:**

- ABH
  - Abstracting electricity
  - Affray
  - Aggravated burglary
  - Aggravated vehicle taking
  - Alcohol sale offences
  - Any specified sexual offences (as set out in Part 2 schedule 15 Criminal Justice Act 2003)
  - Arson
  - Arson/ criminal damage with intent to endanger life or reckless as to whether life endangered
  - Assault with intent to resist arrest
  - Blackmail
  - Burglary
  - Causing death by careless driving while under the influence of drink or drugs
  - Causing death by dangerous driving
  - Causing death by driving when under influence
  - Causing death by driving: disqualified driver
  - Causing explosion likely to endanger life
  - Causing or allowing a child to die
  - Collection of terrorist information
  - Cruelty to children
  - Encouragement of terrorism
  - Excess alcohol (drive/ attempt to drive)
  - Excess alcohol (in charge)
  - Fail to provide specimen (driving)
  - Fail to provide specimen (in charge)
  - Failing to protect a girl from risk of FGM
  - Failure to disclose information about acts of terrorism
  - False Imprisonment
  - Firearms- possession with intent (s18 Firearms Act 1968)
  - Fraud Act offences
  - Funding terrorism
  - Going equipped
  - Handling stolen goods
  - Kidnap
  - Manslaughter
  - Modern Slavery s1 and 2
  - Non fatal strangulation
  - Permitting premises to be used (in relation to drug/ psychoactive substance offences)
  - Possession for terrorist purposes
  - Possession of firearm with intent to cause fear of violence
  - Preparation of terrorist acts
  - Production of drugs/ psychoactive substance
-

- Proscribed organisations – membership
- Proscribed organisations - support
- Racially or religiously aggravated assaults
- Racially or religiously aggravated s4/ s4A Public Order Act
- Riot
- Robbery
- Section 18 Offences against the Person Act
- Section 20 Offences against the Person Act
- Stalking
- Supply/ possession with intent to supply drugs/ psychoactive substance
- Theft
- Threats to kill
- Unauthorised use of trade mark, etc. in relation to goods
- Unfit through drink/ drugs (drive/ attempt to drive)
- Unfit through drink/ drugs (in charge)
- Violent disorder

**Question 19: Do you have any comments on the content of the forfeiture or suspension of a personal licence order guidance, or on the list of sentencing guidelines which will include this guidance?**

---

# Forfeiture of money or property used for the purposes of terrorism (following a conviction under sections 15 to 18 of the Terrorism Act 2000)

Guideline users should be aware that the [Equal Treatment Bench Book](#) covers important aspects of fair treatment and disparity of outcomes for different groups in the criminal justice system. It provides guidance which sentencers are encouraged to take into account wherever applicable, to ensure that there is fairness for all involved in court proceedings.

<b>May be made by</b>	<b>A magistrates' court or the Crown Court</b>
<b>Relevant legislation</b>	<a href="#">Terrorism Act 2000, Part III, section 23</a>
<b>Availability</b>	<p>Where a person is convicted of an offence under sections 15 to 18 Terrorism Act 2000 the court may make a forfeiture order as follows:</p> <p><u>Section 15(1) or (2) or Section 16</u></p> <p>The court may order the forfeiture of any money or other property which, at the time of the offence, the person had in their possession or under their control and which-</p> <ul style="list-style-type: none"> <li>• had been used for the purposes of terrorism, or</li> <li>• they intended should be used, or had reasonable cause to suspect might be used, for those purposes.</li> </ul> <p><u>Section 15(3)</u></p> <p>The court may order the forfeiture of any money or other property which, at the time of the offence, the person had in their possession or under their control and which-</p> <ul style="list-style-type: none"> <li>• had been used for the purposes of terrorism, or</li> <li>• which, at that time, they knew or had reasonable cause to suspect would or might be used for those purposes.</li> </ul> <p><u>Section 17 or Section 18</u></p> <p>The court may order the forfeiture of any money or other property which, at the time of the offence, the person had in their possession or under their control and which-</p> <ul style="list-style-type: none"> <li>• had been used for the purposes of terrorism, or</li> </ul>

- was, at that time, intended by them to be used for those purposes.

#### Section 17

The court may order the forfeiture of the money or other property to which the arrangement in question related, and which-

- had been used for the purposes of terrorism, or
- at the time of the offence, the person knew or had reasonable cause to suspect would or might be used for those purposes.

#### Section 17A

The court may order the forfeiture of the amount paid under, or purportedly under, the insurance contract.

#### Section 18

The court may order the forfeiture of the money or other property to which the arrangement in question related.

#### Sections 15 to 18

The court may order the forfeiture of any money or other property which wholly or partly, and directly or indirectly, is received by any person as a payment or other reward in connection with the commission of the offence.

### Considerations

The court shall have regard to—

- the value of the property, and
- the likely financial and other effects on the convicted person of the making of the order (taken together with any other order that the court contemplates making).

The court must give an opportunity to be heard to any person, (other than the offender), who claims to be the owner or otherwise interested in anything which can be forfeited under that section.

### Implementing the order

Where the court makes a forfeiture order it may also make any other order it deems necessary to give effect to the forfeiture, in particular it may:

- require any of the forfeited property to be paid or handed over to the proper officer or to a constable designated for the purpose by the chief officer of police of a police force specified in the order
- direct any of the forfeited property other than money or land to be sold or otherwise disposed of in such manner as the court may direct and the proceeds (if any) to be paid to the proper officer

**In force**

- appoint a receiver to take possession, subject to such conditions and exceptions as may be specified by the court, of any of the forfeited property, to realise it in such manner as the court may direct and to pay the proceeds to the proper officer
- direct a specified part of any forfeited money, or of the proceeds of the sale, disposal or realisation of any forfeited property, to be paid by the proper officer to a specified person who the court is satisfied is the owner, or an interested person.

A forfeiture order does not come into force until there is no further possibility of it being varied, or set aside, on appeal (disregarding any power of a court to grant leave to appeal out of time).

**Sentencing guidelines that will include a drop down of this guidance:**

- Funding Terrorism

**Question 20: Do you have any comments on the content of the forfeiture of money or property used for the purposes of terrorism guidance, or on the list of sentencing guidelines which will include this guidance?**



## Forfeiture of offensive weapons

Guideline users should be aware that the [Equal Treatment Bench Book](#) covers important aspects of fair treatment and disparity of outcomes for different groups in the criminal justice system. It provides guidance which sentencers are encouraged to take into account wherever applicable, to ensure that there is fairness for all involved in court proceedings.

<b>May be made by</b>	<b>A magistrates' court or the Crown Court</b>
<b>Relevant legislation</b>	<a href="#">Prevention of Crime Act 1953, section 1(2)</a>
<b>Availability</b>	<p>Where an offender has been convicted of an offence under section 1(1) the court may make an order for the forfeiture or disposal of any weapon in respect of which the offence was committed.</p> <p>NB for bladed article offences see deprivation of property order.</p>

### Sentencing guidelines that will include a drop down of this guidance:

- Bladed articles and offensive weapons - having in a public place
- Bladed articles and offensive weapons – threats

**Question 21: Do you have any comments on the content of the forfeiture of offensive weapons order guidance, or on the list of sentencing guidelines which will include this guidance?**

# Forfeiture of equipment used in animal welfare offences

Guideline users should be aware that the [Equal Treatment Bench Book](#) covers important aspects of fair treatment and disparity of outcomes for different groups in the criminal justice system. It provides guidance which sentencers are encouraged to take into account wherever applicable, to ensure that there is fairness for all involved in court proceedings.

<b>May be made by</b>	<b>A magistrates' court or the Crown Court</b>
<b>Relevant legislation</b>	<a href="#">Animal Welfare Act 2006, section 40</a>
<b>Availability</b>	<p>Where a person is convicted of one of the following offences:</p> <ul style="list-style-type: none"> <li>• causing unnecessary suffering (s.4)</li> <li>• mutilation (s.5)</li> <li>• docking of dogs' tails (ss.6(1) and 6(2))</li> <li>• administration of poisons etc. (s.7), or</li> <li>• fighting etc. (s.8)</li> </ul> <p>the court by or before which the offender is convicted may order any qualifying item which is shown to the satisfaction of the court to relate to the offence to be forfeited, and destroyed, or dealt with in such manner as may be specified in the order.</p> <p>Qualifying item:</p> <ul style="list-style-type: none"> <li>• section 4 offences: anything designed or adapted for causing suffering to an animal</li> <li>• section 5 offences: anything designed or adapted for carrying out a prohibited procedure on an animal</li> <li>• section 6(1) or (2) offences: anything designed or adapted for removing the whole or any part of a dog's tail</li> <li>• section 7 offences: anything designed or adapted for administering any drug or substance to an animal</li> <li>• section 8(1) or (2) offences: anything designed or adapted for use in connection with an animal fight</li> </ul>

---

**Considerations**

- section 8(3) offences: a video recording of an animal fight, including anything on or in which the recording is kept.

---

The court shall not order anything to be forfeited if a person claiming to be the owner of it or otherwise interested in it applies to be heard by the court, unless they have been given an opportunity to show cause why the order should not be made.

---

**Sentencing guidelines that will include a drop down of this guidance:**

- Animal cruelty
- Failure to ensure animal welfare

**Question 22: Do you have any comments on the content of the forfeiture of equipment used in animal welfare offences order guidance, or on the list of sentencing guidelines which will include this guidance?**

---

## Forfeiture order - Trade mark offences

Guideline users should be aware that the [Equal Treatment Bench Book](#) covers important aspects of fair treatment and disparity of outcomes for different groups in the criminal justice system. It provides guidance which sentencers are encouraged to take into account wherever applicable, to ensure that there is fairness for all involved in court proceedings.

<b>May be made by</b>	<b>A magistrates' court or the Crown Court</b>
<b>Relevant legislation</b>	<a href="#">section 97 of the Trade Marks Act 1994</a>
<b>Availability</b>	<p>The prosecution may apply for forfeiture of goods or materials bearing a sign likely to be mistaken for a registered trade mark or articles designed for making copies of such a sign.</p> <p>The court shall make an order for forfeiture only if it is satisfied that a relevant offence has been committed in relation to the goods, material or articles.</p> <p>A court may infer that such an offence has been committed in relation to any goods, material or articles if it is satisfied that such an offence has been committed in relation to goods, material or articles which are representative of them (whether by reason of being of the same design or part of the same consignment or batch or otherwise).</p>
<b>Relevant offences</b>	<ul style="list-style-type: none"> <li>• an offence under section 92 of the Trade Marks Act 1994 (unauthorised use of trade mark, etc in relation to goods)</li> <li>• an offence under the Trade Descriptions Act 1968</li> <li>• an offence under the Business Protection from Misleading Marketing Regulations 2008</li> <li>• an offence under the Consumer Protection from Unfair Trading Regulations 2008, or</li> <li>• any offence involving dishonesty or deception</li> </ul>
<b>Destruction of forfeited goods</b>	<p>Where any goods, material or articles are forfeited under this section they shall be destroyed in accordance with such directions as the court may give.</p> <p>On making an order under this section the court may, if it considers it appropriate to do so, direct that the goods, material or articles to which the order relates shall</p>

---

(instead of being destroyed) be released, to such person as the court may specify, on condition that that person

- (a) causes the offending sign to be erased, removed or obliterated, and
  - (b) complies with any order to pay costs which has been made against them in the proceedings for the order for forfeiture.
- 

**Sentencing guidelines that will include a drop down of this guidance:**

- Individuals: Trade mark, unauthorised use of etc.
- Organisations: Trade mark, unauthorised use of etc.

**Question 23: Do you have any comments on the content of the forfeiture order (trade mark offences) guidance, or on the list of sentencing guidelines which will include this guidance?**

---

## Licenced premises - Exclusion order

Guideline users should be aware that the [Equal Treatment Bench Book](#) covers important aspects of fair treatment and disparity of outcomes for different groups in the criminal justice system. It provides guidance which sentencers are encouraged to take into account wherever applicable, to ensure that there is fairness for all involved in court proceedings.

<b>May be made by</b>	<b>A magistrates' court or the Crown Court</b>
<b>Relevant legislation</b>	<a href="#">Licensed Premises (Exclusion of Certain Persons) Act 1980</a>
<b>Availability</b>	<p><b>A court may make an exclusion order</b> Where an offender has been convicted of an offence committed on licensed premises involving the use or threat of violence.</p> <p>An exclusion order can be made in addition to any other sentence including an absolute or conditional discharge</p>
<b>Effect of the order</b>	The order prohibits the offender from entering <b>specified</b> licensed premises without the express consent of the licensee.
<b>Length of order</b>	Minimum three months, maximum two years
<b>Consequences of breach</b>	Breach of an exclusion order is a criminal offence, maximum penalty one month's custody or a level 4 fine.

### Sentencing guidelines that will include a drop down of this guidance:

- Affray
- Bladed articles and offensive weapons – threats
- Disorderly behaviour with intent to cause harassment, alarm or distress/ Racially or religiously aggravated disorderly behaviour with intent to cause harassment, alarm or distress
- Threatening behaviour – fear or provocation of violence/ Racially or religiously aggravated threatening behaviour – fear or provocation of violence
- Common assault / Racially or religiously aggravated common assault/ Battery/ Common assault on emergency worker
- Assault occasioning actual bodily harm / Racially or religiously aggravated ABH
- Inflicting grievous bodily harm/ Unlawful wounding/ Racially or religiously aggravated GBH/ Unlawful wounding

**Question 24: Do you have any comments on the content of the licenced premises exclusion order guidance, or on the list of sentencing guidelines which will include this guidance?**

## Parenting order – Child

Guideline users should be aware that the [Equal Treatment Bench Book](#) covers important aspects of fair treatment and disparity of outcomes for different groups in the criminal justice system. It provides guidance which sentencers are encouraged to take into account wherever applicable, to ensure that there is fairness for all involved in court proceedings.

<b>May be made by</b>	<b>A youth court or a magistrates' court</b>
<b>Relevant legislation</b>	<a href="#">Sentencing Act 2020, part 11, Chapter 4</a>
<b>Availability</b>	<ul style="list-style-type: none"> <li>A parenting order is available under section 366 Sentencing Act 2020 to a court dealing with a child convicted of an offence.</li> </ul> <p>If the child is aged under 16 at the time of conviction, the court <b>must</b> make a parenting order in respect of a parent or guardian of the child if it is satisfied that the order would be desirable in the interests of preventing the commission of any further offence by the child.</p> <p>If the child is aged 16 or 17 at the time of conviction, the court <b>may</b> make a parenting order in respect of a parent or guardian of the child if it is satisfied that the order would be desirable in the interests of preventing the commission of any further offence by the child.</p> <ul style="list-style-type: none"> <li>A parenting order is available under section 368 Sentencing Act 2020 to a youth court dealing with a parent or guardian who has failed to comply with an order requiring them to attend meetings of the youth offender panel.</li> </ul>
<b>Content of the order</b>	<ul style="list-style-type: none"> <li>The order may impose such requirements that the court considers desirable in the interests of preventing the commission of any further offence by the child.</li> <li>A requirement to attend a counselling or guidance programme as specified by the responsible officer must be included unless the child has been the subject of a parenting order on a previous occasion.</li> </ul>



## Considerations

- If the order contains a requirement to attend a counselling or guidance programme and the court is satisfied that
  - the attendance of the parent or guardian at a residential course is likely to be more effective than that person's attendance at a non-residential course in preventing the commission of any further offence by the child, and
  - any interference with family life which is likely to result from the parent's or guardian's attendance at a residential course is proportionate in all the circumstances,

the court may provide in the order that a counselling or guidance programme which the parent or guardian is required to attend by virtue of the requirement may be or include a residential course.

- Before making a parenting order under section 368, the court must explain to the parent in ordinary language, the effect of the order and its requirements and the consequences of a breach.
- The parenting order must specify the responsible officer.

- Before making a parenting order in respect of a parent or guardian of an child aged under 16, the court must obtain and consider information about the child's family circumstances, and the likely effect of the order on those circumstances.
- Before making a parenting order and referral order the court must obtain and consider a report by a member of the youth offending team (or the probation team, or a social worker of a local authority)
  - indicating the requirements which that officer proposes should be included in the parenting order
  - indicating the reasons why the officer considers that those requirements would be desirable in the interests of preventing the commission of any further offence by the child, and
  - if the child is aged under 16, containing information about the child's family circumstances, and the likely effect of the order on those circumstances.

	<ul style="list-style-type: none"> <li>• Before making an order under s368 the youth court may make an order if it is satisfied that the parent or guardian has failed without reasonable excuse to comply with the order under section 90, and the parenting order would be desirable in the interests of preventing the commission of any further offence by the child.</li> </ul>
<b>Reasons</b>	Where the child is under 16 at the time of conviction and the court does not make a parenting order in respect of their parent or guardian, the court must state its reasons. This does not apply if the court makes a referral order in respect of the child.
<b>Length of the order</b>	The term of the order must not exceed 12 months.
<b>Consequences of Breach</b>	Breach of a parenting order is a criminal offence, maximum penalty level 3 fine.

**Sentencing guidelines that will include a drop down of this guidance:**

- Bladed articles and offensive weapons (having in public/education premises and threats) – children and young people
- Robbery – Sentencing children and young people
- Sexual offences – Sentencing children and young people

**Question 25: Do you have any comments on the content of the parenting order (child) guidance, or on the list of sentencing guidelines which will include this guidance?**

## Parenting order – Education Act

Guideline users should be aware that the [Equal Treatment Bench Book](#) covers important aspects of fair treatment and disparity of outcomes for different groups in the criminal justice system. It provides guidance which sentencers are encouraged to take into account wherever applicable, to ensure that there is fairness for all involved in court proceedings.

<b>May be made by</b>	<b>A magistrates' court</b>
<b>Relevant legislation</b>	<a href="#">Sentencing Act 2020, part 11, Chapter 4</a>
<b>Availability</b>	<p>The court may make a parenting order where an offender has been convicted of an offence under section 443 of the Education Act 1996 (failure to comply with school attendance order) or section 444 (failing to secure regular attendance at school) and the court is satisfied that the order would be desirable in the interests of preventing the commission of any further offence under either of those sections (<a href="#">Sentencing Code, s.369</a>).</p>
<b>Content of the order</b>	<ul style="list-style-type: none"> <li>• The order may impose such requirements that the court considers desirable in the interests of preventing the commission of a further offence under section 443 or 444.</li> <li>• A requirement to attend a counselling or guidance programme as specified by the responsible officer must be included unless the offender has been the subject of a parenting order on a previous occasion.</li> </ul> <p>If the order contains a requirement to attend a counselling or guidance programme and the court is satisfied that:</p> <p>(a) the attendance of the offender at a residential course is likely to be more effective than the offender's attendance at a non-residential course in preventing the commission of any further offence under section 443 or 444 of the Education Act 1996, and</p> <p>(b) any interference with family life which is likely to result from that person's attendance at a residential course is proportionate in all the circumstances,</p> <p>the court may provide in the order that a counselling or guidance programme which the offender is required to</p>

	<p>attend by virtue of the requirement may be or include a residential course.</p> <ul style="list-style-type: none"> <li>• Before making a parenting order the court must explain to the parent in ordinary language, the effect of the order and its requirements and the consequences of a breach.</li> <li>• The parenting order must specify the responsible officer.</li> </ul>
<b>Considerations</b>	<p>Before making a parenting order for an offender in relation to a child aged under 16, the court must obtain and consider information about that child's family circumstances, and the likely effect of the order on those circumstances.</p>
<b>Length of the order</b>	<p>The term of the order must not exceed 12 months.</p>
<b>Consequences of breach</b>	<p>Breach of any requirement of a parenting order is a criminal offence, maximum penalty level 3 fine.</p>

**Sentencing guidelines that will include a drop down of this guidance:**

- School non-attendance

**Question 26: Do you have any comments on the content of the parenting order (Education Act) guidance, or on the list of sentencing guidelines which will include this guidance?**

# Restitution

Guideline users should be aware that the [Equal Treatment Bench Book](#) covers important aspects of fair treatment and disparity of outcomes for different groups in the criminal justice system. It provides guidance which sentencers are encouraged to take into account wherever applicable, to ensure that there is fairness for all involved in court proceedings.

<b>May be made by</b>	<b>A magistrates' court or the Crown Court</b>
<b>Relevant legislation</b>	<a href="#">ss.147-151 Sentencing Code</a>
<b>Availability</b>	<p>Where goods have been stolen or obtained through blackmail or fraud and an offender is convicted of any offence with reference to theft of those goods, the court may make a restitution order.</p> <p>A restitution order may also be ordered in respect of offences taken into consideration.</p>
<b>Effect of the order</b>	<p>The court may:</p> <ol style="list-style-type: none"> <li>i. order anyone in possession or control of the stolen goods to restore them to the victim</li> <li>ii. on the application of the victim, order that goods directly or indirectly representing the stolen goods (as being the proceeds of any disposal or realisation of the stolen goods) be transferred to the victim, or</li> <li>iii. order that a sum not exceeding the value of the stolen goods be paid to the victim (or any person who has bought the stolen goods in good faith – limited to the amount paid) out of any money taken out of the offender's possession on his or her apprehension</li> </ol>
<b>Considerations</b>	<p>The order should be made only where the evidence identifying the goods or the proceeds of their sale is clear and there is no issue as to title.</p> <p>Orders may be made before completion of confiscation proceedings.</p>

**Sentencing guidelines that will include a drop down of this guidance:**

- Blackmail
- Fraud

- Handling stolen goods
- Making off without payment
- Modern Slavery
- Theft – general
- Theft from shop or stall

**Question 27: Do you have any comments on the content of the restitution order guidance, or on the list of sentencing guidelines which will include this guidance?**

---

# Restraining order on conviction

Guideline users should be aware that the [Equal Treatment Bench Book](#) covers important aspects of fair treatment and disparity of outcomes for different groups in the criminal justice system. It provides guidance which sentencers are encouraged to take into account wherever applicable, to ensure that there is fairness for all involved in court proceedings.

<b>May be made by</b>	<b>A magistrates' court or the Crown Court</b>
<b>Relevant legislation</b>	<a href="#">Sentencing Code, s.360</a>
<b>Availability</b>	On sentence for any offence, a court may make a restraining order in addition to dealing with the offender for the offence.
<b>Nature of the order</b>	<p>A restraining order may be made for the purpose of protecting the victim(s) of the offence (or any other person mentioned in the order) from future conduct by the offender which amounts to harassment or will cause a fear of violence.</p> <p>The order prohibits the offender from doing anything described in the order.</p> <p>“Conduct” includes speech, and “harassment” includes alarming the person or causing them distress.</p>
<b>Notice</b>	<p>There is no requirement for notice of the application to be given, but the offender must be given an opportunity to consider:</p> <ul style="list-style-type: none"> <li>• what order is proposed and why, and</li> <li>• any evidence in support of the application</li> </ul> <p>(Criminal Procedure Rule 31.2)</p>
<b>Deciding whether to make a restraining order on conviction</b>	<p>The court must be satisfied that making the order is necessary for the purpose of protecting the person(s) from the relevant conduct. This requires an evidence-based conclusion to be reached that it is at least likely that the offender will engage in such conduct in the future.</p> <p>The order cannot be made merely to assuage the consequences of past conduct. However, this does not mean that the consequences for the person to be protected of the past conduct, and the likely consequences of any future conduct, are irrelevant. The</p>

### Taking into account the views of the person(s) to be protected

degree of harassment involved in the past conduct and/or the level of fear and distress it has caused are relevant when determining whether to make a restraining order and the terms of any order.

Further evidence (in addition to that which relates to the offence of which the offender has been convicted ) may be led by the prosecution and/or the offender, provided that it would be admissible in civil proceedings for an injunction under s.3 of the Protection of Harassment Act 1997 ([Sentencing Act 2020, s.362](#)). Hearsay evidence may be received.

In normal circumstances before an application for restraining order is considered by the court, sufficient enquiries should be made to obtain the views of the person to be protected as to whether they wish the order to be made and if so as to its terms.

These views should be taken into account by the court when deciding whether to make the order (and if so its terms).

There is no requirement for the court to receive direct evidence of the views of the person to be protected. In appropriate cases, the court may be able to draw a proper inference as to the views of the person.

There may be cases where the order will be appropriate even though the person to be protected does not seek it. However, such an order may be impractical if the person to be protected does not want the order to be made because they want to have contact with the offender (see also **Offences in a domestic context** below).

### Content of a restraining order

#### General considerations

A restraining order may only include prohibitions. There is no power to include requirements or to make any prohibition subject to electronic monitoring.

The prohibitions in the order must be:

- necessary to protect the person(s) to be protected from future conduct which either amounts to harassment of that person or will cause them to fear violence
- proportionate to that purpose, and
- clear and precise so that there is no doubt what the offender is prohibited from doing



A restraining order must not conflict with an order of the family court or make such an order unworkable or impractical

### **Identifying the person(s) to be protected**

Generally, a restraining order should name the person (or a defined group of people) to be protected. The order cannot be made for the protection of the world at large or for excessively wide groups of people (such as “any child under 16”). The person to be protected can be a corporate body or the unnamed employees of a corporate body.

### **Offences in a domestic context**

Where the making of a restraining order might interfere with otherwise appropriate contact between a parent and a child, sufficient enquiries should be made about the practicalities of the order and particular care should be taken to ensure that the order does not make it impossible for contact to take place.

In cases where the court has determined that it is necessary to make a restraining order despite a view expressed by an adult person to be protected that they do not wish the order to be made, the prohibitions in the order cannot operate to prevent the relationship between the person to be protected and the offender from continuing (including by living together). Persons at a serious risk of harm from an offender have the right to continue a relationship with that person and to live with them if they choose.

In this situation, the restraining order may include terms which prohibit conduct such as:

- molesting the person to be protected
- going to a particular place away from the home (in order for the person to be protected to have a safe space to go should they wish to be away from the offender)
- contacting the person to be protected for a specified period (e.g. 14 days) if the person to be protected has asked for a break

### **Geographical exclusion**

- A restraining order should not prohibit the offender from going to a place such as the home or workplace of the person to be protected without specifying the address in the order or any other circumstances in which the offender might become aware of a new address

	<ul style="list-style-type: none"> <li>• A geographical exclusion can be for a wider area than a particular address (or road where that address is located) if it is necessary in the particular circumstances of the case. Exclusion from a town might be necessary, even if the offender had lived there before being sent to custody for the offence</li> <li>• The term of the order prohibiting entry into a geographical area must be clearly expressed and accompanied either by a map or by a clear written description of the prohibited area.</li> </ul>
<b>Commencement of order</b>	<p>A restraining order can start on the day on which it is made or any subsequent day. The date of its commencement must be specified clearly in the order to avoid uncertainty and difficulties of enforcement.</p> <p>Where an offender has been sentenced to custody for the offence, a restraining order should start from the date of sentence and not from the date of release of the offender from custody.</p>
<b>Length of order</b>	<p>The order may have effect for a specified period or until further order.</p> <p>The court should make the order for no longer than is necessary for the purpose of protecting the protected person(s) from future conduct by the offender which either amounts to harassment of the protected person(s) or will cause them to fear violence.</p>
<b>Effect of the order</b>	<p>It is an offence for the offender, without reasonable excuse, to do anything that they are prohibited from doing by a restraining order.</p>
<b>Consequences of breach</b>	<p>Breach of a restraining order is a criminal offence, maximum penalty five years' custody.</p> <p><a href="#"><u>Breach of a protective order (restraining and non-molestation orders)</u></a></p>

### Sentencing guidelines that will include a drop down of this guidance:

- Communication network offences
- Controlling or coercive behaviour in an intimate or family relationship
- Disclosing or threatening to disclose private sexual images
- Harassment (fear of violence)/ Stalking (fear of violence)/ Racially or religiously aggravated harassment (fear of violence)/ Stalking (fear of violence)
- Harassment/ Stalking/ Racially or religiously aggravated harassment/stalking
- Slavery, servitude and forced or compulsory labour/ Human trafficking

- Threats to kill
- Common assault / Racially or religiously aggravated common assault/ Battery/ Common assault on emergency worker
- Assault occasioning actual bodily harm / Racially or religiously aggravated ABH
- Causing grievous bodily harm with intent to do grievous bodily harm / Wounding with intent to do GBH
- Inflicting grievous bodily harm/ Unlawful wounding/ Racially or religiously aggravated GBH/ Unlawful wounding
- Domestic abuse – overarching principles

**Question 28: Do you have any comments on the content of the restraining order guidance, or on the list of sentencing guidelines which will include this guidance?**

---

# Serious crime prevention order on conviction

Guideline users should be aware that the [Equal Treatment Bench Book](#) covers important aspects of fair treatment and disparity of outcomes for different groups in the criminal justice system. It provides guidance which sentencers are encouraged to take into account wherever applicable, to ensure that there is fairness for all involved in court proceedings.

May be made by	The Crown Court
Relevant legislation	<a href="#">Serious Crime Act 2007, part 1</a> (section 19 - 21)
Availability	<p>Can be made by the Crown Court if the offender has:</p> <ul style="list-style-type: none"> <li>• been convicted of a serious offence and</li> <li>• there are reasonable grounds to believe that the order would protect the public by preventing, restricting or disrupting involvement by the person in serious crime in England and Wales.</li> </ul> <p>A serious offence is one which is specified in <a href="#">Part 1 of Schedule 1</a> or is one which the court considers to be sufficiently serious to be treated for the purposes of the application as if it were so specified.</p>
Content of the order	<p>An order may contain prohibitions, restrictions or requirements and any other terms that the court considers appropriate for the purpose of protecting the public by preventing, restricting or disrupting involvement by the offender in serious crime in England and Wales.</p> <p>The SCPO can contain prohibitions, restrictions or requirements. For example the SCPO may include:</p> <p>Prohibitions, restrictions, or requirements in relation to:</p> <ul style="list-style-type: none"> <li>• an individual's financial, property or business dealings or holdings</li> <li>• an individual's working arrangements</li> <li>• the means by which an individual communicates or associates with others, or the persons with whom the individual communicates or associates</li> <li>• the premises to which an individual has access</li> <li>• the use of any premises or item by an individual</li> </ul>

	<ul style="list-style-type: none"> <li>• an individual's travel (whether within the United Kingdom, between the United Kingdom and other places or otherwise)</li> </ul> <p>Requirement(s) to answer questions, or provide information, specified or described in an order:</p> <ul style="list-style-type: none"> <li>• at a time, within a period or at a frequency</li> <li>• at a place</li> <li>• in a form and manner, and</li> <li>• to a law enforcement officer or description of law enforcement officer</li> <li>• notified to the person by a law enforcement officer specified or described in the order</li> </ul> <p>Requirement(s) to produce documents specified or described in an order:</p> <ul style="list-style-type: none"> <li>• at a time, within a period or at a frequency</li> <li>• at a place</li> <li>• in a manner, and</li> <li>• to a law enforcement officer or description of law enforcement officer</li> <li>• notified to the person by a law enforcement officer specified or described in the order.</li> </ul> <p>The order may include prohibitions, restrictions or requirements in relation to an individual's private dwelling (such as where an individual may reside).</p>
<b>Length of the order</b>	<p>The order must specify when it comes into force and when it will end.</p> <p>The order cannot exceed 5 years.</p> <p>The order may specify different times for different provisions but must be clear about when each starts and ends.</p>
<b>Effect on earlier orders</b>	<p>Where an offender is already the subject of a serious crime prevention order that existing order must be discharged.</p>
<b>Consequences of breach</b>	<p>Breach of a SCPO is a criminal offence, maximum penalty five years' custody.</p>

**Sentencing guidelines that will include a drop down of this guidance:**

- Firearms – Importation

- 
- Firearms – Possession of prohibited weapon
  - Firearms – Possession without certificate
  - Money laundering
  - Fraudulent evasion of a prohibition by bringing into or taking out of the UK a controlled drug
  - Importing or exporting a psychoactive substance
  - Permitting premises to be used
  - Producing a psychoactive substance
  - Production of a controlled drug/ Cultivation of cannabis plant
  - Supplying or offering to supply a controlled drug/ Possession of a controlled drug with intent to supply it to another
  - Supplying or offering to supply a psychoactive substance/ Possession of psychoactive substance with intent to supply
  - Committing offence with intent to commit a human trafficking offence
  - Slavery, servitude and forced or compulsory labour/ Human trafficking
  - Collection of terrorist information
  - Encouragement of terrorism
  - Failure to disclose information about acts of terrorism
  - Funding terrorism
  - Possession for terrorist purposes
  - Preparation of terrorist acts
  - Proscribed organisations – membership
  - Proscribed organisations – support
  - Arranging or facilitating the commission of a child sex offence
  - Causing or inciting sexual exploitation of a child/ Controlling a child in relation to sexual exploitation/ Arranging or facilitating sexual exploitation of a child
  - Causing or inciting prostitution for gain/ Controlling prostitution for gain
  - Robbery (only relevant where an offender uses a firearms, imitation firearm or offensive weapon to threaten force)
  - Robbery – dwelling
  - Robbery – professionally planned commercial
  - Robbery – street and less sophisticated commercial
  - Bribery: Bribing another person
  - Possession of articles for use in frauds/ Making or supplying articles for use in frauds
  - Individuals: Unauthorised or harmful deposit, treatment or disposal etc of waste/ Illegal discharges to air, land and water

**Question 29: Do you have any comments on the content of the serious crime prevention order guidance, or on the list of sentencing guidelines which will include this guidance?**

---

# Sexual harm prevention order on conviction

Guideline users should be aware that the [Equal Treatment Bench Book](#) covers important aspects of fair treatment and disparity of outcomes for different groups in the criminal justice system. It provides guidance which sentencers are encouraged to take into account wherever applicable, to ensure that there is fairness for all involved in court proceedings.

<b>May be made by</b>	<b>A magistrates' court or the Crown Court</b>
<b>Relevant legislation</b>	<a href="#">Sentencing Act 2020, part 11, Chapter 2</a>
<b>Availability</b>	<p>Where a person is convicted of an offence listed in <a href="#">Schedule 3</a> or <a href="#">Schedule 5</a> to the Sexual Offences Act 2003 the court dealing with the offender in respect of the offence may make an SHPO if satisfied that it is necessary to do so for the purpose of—</p> <ul style="list-style-type: none"> <li>• protecting the public or any particular members of the public from sexual harm from the offender, or</li> <li>• protecting children or vulnerable adults generally, or any particular children or vulnerable adults, from sexual harm from the offender outside the United Kingdom.</li> </ul> <p>No application is necessary for the court to make a SHPO at the point of sentence although the prosecutor may wish to invite the court to consider making an order in appropriate cases. The court may ask pre-sentence report writers to consider the suitability of a SHPO on a non-prejudicial basis.</p> <p><a href="#">Sentencing Act 2020, s344(2)</a> provides that any conditions in Sch. 3 SOA 2003 relating to the age of the offender or the victim, or the sentence imposed on the offender may be disregarded in determining whether the offence is listed in schedule 1.</p>
<b>Considerations</b>	<p>The details of the offence are likely to be a key factor in the court's decision, together with the offender's previous convictions and the assessment of risk presented by the Probation Service in any pre-sentence report. The court may take into consideration the range of other options</p>

	<p>available to it in respect of protecting the public. The court may want to consider:</p> <ol style="list-style-type: none"> <li>1. Would an order minimise the risk of harm to the public or to any particular members of the public?</li> <li>2. Is it proportionate?</li> <li>3. Can it be policed effectively?</li> </ol>
<p><b>Content of the order</b></p>	<p>The order may <b>prohibit</b> the offender from doing anything described in the order or <b>require</b> the offender to do anything described in the order.</p> <p>The prohibitions or requirements which are imposed must, so far as practicable, be such as to avoid—</p> <ul style="list-style-type: none"> <li>• any conflict with the offender’s religious beliefs,</li> <li>• any interference with the times, if any, at which the offender normally works or attends any educational establishment, and</li> <li>• any conflict with any other court order or injunction</li> </ul> <p>A SHPO that imposes a requirement (other than an electronic monitoring requirement) to do something must specify a person who is to be responsible for supervising compliance with the requirement. The person may be an individual or organisation. The court must receive evidence about the requirements suitability and enforceability from the individual who will enforce it or from an individual representing the organisation who will enforce it.</p>
<p><b>Length of the order</b></p>	<p>Within the SHPO the Court must specify the period for which each prohibition or requirement is to have effect (the specified period).</p> <p>The specified period must either be a fixed period of not less than 5 years or an indefinite period (so that the prohibition or requirement has effect until further order).</p> <p>The order may specify different periods for different prohibitions or requirements.</p> <p>As a guide, the specified period would normally be the same length as the statutory notification period.</p>
<p><b>Effect on earlier orders</b></p>	<p>Where an order is made in respect of an offender who is already subject to an SHPO, the earlier SHPO ceases to have effect. If the offender is already subject to a Sexual Offences Prevention Order or Foreign Travel Order made</p>



**Consequences of breach**

in Scotland or Northern Ireland, that order ceases to have effect unless the court orders otherwise.

Breach of a SHPO is a criminal offence, maximum penalty five years' custody.

[Breach of a sexual harm prevention order guideline](#)

**Sentencing guidelines that will include a drop down of this guidance:**

All sexual offence guidelines.

**Question 30: Do you have any comments on the content of the sexual harm prevention order guidance, or on the list of sentencing guidelines which will include this guidance?**

# Slavery and trafficking prevention order

Guideline users should be aware that the [Equal Treatment Bench Book](#) covers important aspects of fair treatment and disparity of outcomes for different groups in the criminal justice system. It provides guidance which sentencers are encouraged to take into account wherever applicable, to ensure that there is fairness for all involved in court proceedings.

<b>May be made by</b>	<b>A magistrates' court or the Crown Court</b>
<b>Relevant legislation</b>	<a href="#">sections 14-18 of the Modern Slavery Act 2015</a>
<b>Availability</b>	<p>A court may make a slavery and trafficking prevention order against an offender convicted of a slavery or human trafficking offence, if it is satisfied that</p> <ul style="list-style-type: none"> <li>• there is a risk that the offender may commit a slavery or human trafficking offence, and</li> <li>• it is necessary (not merely desirable or helpful) to make the order for the purpose of protecting persons generally, or particular persons, from the physical or psychological harm which would be likely to occur if the offender committed such an offence.</li> </ul>
<b>Considerations</b>	<ul style="list-style-type: none"> <li>• The risk that the offender may commit a slavery or human trafficking offence must be real, not remote, and must be sufficient to justify the making of such an order. In considering whether such a risk is present in a particular case, the court is entitled to have regard to all the information before it, including the contents of a pre-sentence report, or information in relation to any previous convictions, or in relation to any previous failure to comply with court orders.</li> <li>• In determining whether any order is necessary, the court must consider whether the risk is sufficiently addressed by the nature and length of the sentence imposed, and/or the presence of other controls on the offender. The court should consider the ability of a chief officer of police to apply for an order if it becomes necessary to do so in the future.</li> <li>• The criterion of necessity also applies to the individual terms of the order. The order may prohibit the defendant from doing things in any part of the UK, and anywhere outside the UK. These prohibitions must be both reasonable and proportionate to the purpose for which it is</li> </ul>

	<p>made. The court should take into account any adverse effect of the order on the offender's rehabilitation, and the realities of life in an age of electronic means of communication.</p> <ul style="list-style-type: none"> <li>• The terms of the order must be clear, so that the offender can readily understand what they are prohibited from doing and those responsible for enforcing the order can readily identify any breach.</li> <li>• A draft order must be provided to the court and to all defence advocates in good time to enable its terms to be considered before the sentencing hearing.</li> </ul>
<p><b>Prohibitions on foreign travel</b></p>	<p>The order may contain a prohibition on travelling to any country outside the UK, or travelling to any country outside the UK that is, or is other than, those named or described in the order.</p> <p>The foreign travel prohibition may last for no more than five years, but can be renewed for additional periods of up to five years on application.</p> <p>If the STPO contains a prohibition on any travel outside the UK, it must require the offender to surrender all their passports at a police station specified in the order on or before the date when the prohibition takes effect or within a period specified in the order.</p>
<p><b>Duration of the order</b></p>	<p>The order can be for a fixed period of at least five years or until further order. The order may specify that some of its prohibitions have effect until further order and some for a fixed period and may specify different periods for different prohibitions.</p>
<p><b>Breach of the order</b></p>	<p>Breach of a slavery and trafficking prevention order is a criminal offence, maximum penalty five years' custody.</p> <p><a href="#">Breach of a Slavery and Trafficking Prevention Order</a></p>

**Sentencing guidelines that will include a drop down of this guidance:**

- Slavery, servitude and forced or compulsory labour/ Human trafficking

**Question 31: Do you have any comments on the content of the slavery and trafficking prevention order guidance, or on the list of sentencing guidelines which will include this guidance?**

# Slavery and trafficking reparation order

Guideline users should be aware that the [Equal Treatment Bench Book](#) covers important aspects of fair treatment and disparity of outcomes for different groups in the criminal justice system. It provides guidance which sentencers are encouraged to take into account wherever applicable, to ensure that there is fairness for all involved in court proceedings.

May be made by	The Crown Court
Relevant legislation	<a href="#">Section 8 of the Modern Slavery Act 2015</a>
Availability	<p>Where a confiscation order has been made by the Crown Court under section 6 of the Proceeds of Crime Act 2002, the court may make a slavery and trafficking reparation order under section 8 of the Modern Slavery Act 2015, requiring the offender to pay compensation to the victim for any harm resulting from an offence under sections 1, 2 or 4 of the Modern Slavery Act.</p> <p>In practice, the reparation will come out of the amount taken under the confiscation order.</p>
Considerations	<p>In every eligible case, the court must consider whether to make a slavery and trafficking reparation order, and if one is not made the judge must give reasons.</p> <p>However, a slavery and trafficking reparation order cannot be made if the court has made a compensation order under <a href="#">section 134 of the Sentencing Code</a>.</p>
Effect on other financial orders	<p>If the court considers that it would be appropriate both to impose a fine and to make a slavery and trafficking reparation order, but the offender has insufficient means to pay both an appropriate fine and appropriate compensation under such an order, the court must give preference to compensation (although it may impose a fine as well).</p> <p>A slavery and trafficking reparation order takes priority over the surcharge where the offender's means are an issue.</p>

## Sentencing guidelines that will include a drop down of this guidance:

- Slavery, servitude and forced or compulsory labour/ Human trafficking

**Question 32: Do you have any comments on the content of the slavery and trafficking reparation order guidance, or on the list of sentencing guidelines which will include this guidance?**

## Sub-letting - Unlawful profit order

Guideline users should be aware that the [Equal Treatment Bench Book](#) covers important aspects of fair treatment and disparity of outcomes for different groups in the criminal justice system. It provides guidance which sentencers are encouraged to take into account wherever applicable, to ensure that there is fairness for all involved in court proceedings.

<b>May be made by</b>	<b>A magistrates' court or the Crown Court</b>
<b>Relevant legislation</b>	Section 4 of the Prevention of Social Housing Fraud Act 2013
<b>Availability</b>	<p>Where an offender is convicted of an offence of unlawful sub-letting or associated offence (sections 1 and 2 of the Prevention of Social Housing Fraud Act 2013) The court by or before which the offender is convicted must, on application or otherwise, decide whether to make an unlawful profit order (UPO), and give reasons if it does not make such an order.</p> <p>A UPO is an order requiring the offender to pay the landlord an amount representing the profit made by the offender as a result of the conduct constituting the offence.</p> <p>The court may make such an order instead of or in addition to dealing with the offender in any other way.</p>
<b>Amount of the order</b>	<p>The amount payable under a UPO must be such amount as the court considers appropriate, having regard to any evidence and to any representations from the parties subject to the maximum amount payable which is calculated as follows:</p> <p>Step 1:</p> <p>Determine the total amount the offender received as a result of the conduct constituting the offence (or the best estimate of that amount).</p> <p>Step 2:</p> <p>Deduct from that amount the total amount, if any, paid by the offender as rent to the landlord (including service charges) over the period during which the offence was committed.</p>

---

<b>Combining with a fine</b>	If the court thinks that both a UPO and a fine are appropriate, but the offender has insufficient means to pay both the court must give preference to a UPO.
<b>Consequences of non-payment</b>	If the amount required to be paid by a person under a UPO is not paid when it is required to be paid, that person must pay interest on the amount for the period for which it remains unpaid at the rate of interest for the time being specified in s 17 of the Judgments Act 1838 (interest on civil judgment debts).

---

**Sentencing guidelines that will include a drop down of this guidance:**

There are no current sentencing guidelines to which this order relates. The guidance will appear solely in a list of ancillary orders accessible to all courts

**Question 33: Do you have any comments on the content of the sub-letting unlawful profit order guidance, or on the list of sentencing guidelines which will include this guidance?**

# Travel restriction order

Guideline users should be aware that the [Equal Treatment Bench Book](#) covers important aspects of fair treatment and disparity of outcomes for different groups in the criminal justice system. It provides guidance which sentencers are encouraged to take into account wherever applicable, to ensure that there is fairness for all involved in court proceedings.

May be made by	The Crown Court
Relevant legislation	<a href="#">Section 33 of the Criminal Justice and Police Act 2001</a>
Availability	A travel restriction order may be made on conviction of a drug trafficking offence as defined in <a href="#">Section 34 of the Criminal Justice and Police Act 2001</a> which includes importation, production and supply of controlled drugs (but not possession with intent to supply or cultivation of cannabis plant) and where an offender is sentenced to a custodial sentence of <b>four</b> years or more.
Duty of the court	<p>The court must consider making an order where it is available.</p> <p>It is appropriate to make an order where there is reason to believe that it will reduce the risk of re-offending on release from prison.</p> <p>If it does not make an order the court must give reasons.</p>
Length of the order	The minimum length of an order is two years from the date of the offender's release from custody. There is no maximum length. The length should be that which is required to protect the public in the light of the assessment of the degree of risk which is presented by the facts of the case and the circumstances of the offender.
Effect of the order	The effect of an order is to prohibit the offender from leaving the UK for the period of the order, commencing on the date of release from custody. The offender may be required to deliver up any passport, which is a pre-requisite to enforcing such an order

## Sentencing guidelines that will include a drop down of this guidance:

- Production of a controlled drug
- Supplying or offering to supply a controlled drug



- Fraudulent evasion of a prohibition by bringing into or taking out of the UK a controlled drug

**Question 34: Do you have any comments on the content of the travel restriction order guidance, or on the list of sentencing guidelines which will include this guidance?**

---

---

# Equalities and impact

As stated in the introduction, the Council is seeking to improve the consistency, accessibility and presentation of the current information and to provide more detailed guidance for both magistrates' courts and the Crown Court.

## Equalities

The proposals being consulted are unlikely to have any bearing on equality issues, save for possibly in a positive way by improving the consistency of approach to ancillary orders. We would welcome comments on any equality issues relating to the proposals that we have missed.

**Question 35: Are there any equalities issues relating to the proposals that should be addressed?**

## Impact

The Council does not anticipate any impact on prison and probation resources from the proposals in this consultation. In view of the nature of the consultation, a resource assessment has not been produced.

**Question 36: Do you have any comments on the likely impact of the proposals on sentencing practice?**

## General observations

We would also like to hear any other views you have on the proposals that you have not had the opportunity to raise in response to earlier questions.

**Question 37: Are there any other comments you wish to make on the proposals?**

---



The Office of the Sentencing Council, EB12–16, Royal Courts of Justice, Strand,  
London WC2A 2LL

Telephone: 020 7071 5793 | Email: [info@sentencingcouncil.gov.uk](mailto:info@sentencingcouncil.gov.uk) |  
[www.sentencingcouncil.org.uk](http://www.sentencingcouncil.org.uk) | @SentencingCCL